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ABSTRACT

The Immigration Control and Reform Act of 1986 (IRCA) gives undocumented aliens a chance to be granted legal immigration status. This document is the third quarter assessment of the Act, which ends its application period on May 4, 1988. The overall finding is that the legalization program requires major policy intervention before it is over or the chance to bring order to the immigration structure will be lost. More specific findings and recommendations include the following: (1) the public information effort has been inadequate and should be enhanced by a broad-based partnership of public and private information services; (2) adjustments in the regulatory policy have removed some barriers to eligibility but family members must be assured that each case will be judged sympathetically on its own merits; (3) the application process is efficient, and timely final decisions must be the highest priority; (4) some assistance organizations are operating well, others that have experienced mistrust must receive more support from the Immigration and Naturalization Service; (5) since the exact number of eligible persons is not known, the success of the program should not be judged by numbers; and (6) special arrangements may have to be made if there is a surge of applications just before the deadline. (VM)

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The Legalization Countdown: A Third Quarter Assessment

by

Doris M. Meissner
and
Demetrios G. Papademetriou

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by

Doris Meissner
Demetrios Papademetriou

February, 1988

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Table of Contents

Acknowledgments v

Findings & Recommendations vii

Chapter I - The Context 1

Chapter II - The Issues

- A. Public Information 10
- B. Regulatory Policy 22
- C. Application Processing 40
- D. Immigrant-Assistance Organizations 61
- E. The Number of Applicants 80

Chapter III - The Extension Question 105

Works Consulted 112

Appendix I - The SAW Legalization Program by Philip L. Martin 115

Appendix II - Schedule of Interviews and Discussions 134

Appendix III - Members of the Review Panel 141

About the Authors 143

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As is customary and appropriate, the views reflected in the report, and all errors of omission or commission, are the authors'.

Doris Meissner
Demetrios Papademetriou
February 1988

FINDINGS AND RECOMMENDATIONS

The objective of the legalization program as established in the Immigration Control and Reform Act of 1986 (IRCA) is to have all eligible undocumented aliens be given a reasonable chance to obtain legal immigration status. The application period began on May 5, 1987 and ends on May 4, 1988.

The purpose of this third-quarter assessment is to review progress toward that goal and make recommendations for the final three months of the program. Our work is based on extensive interviewing during December and January in the seven states and major metropolitan areas that account for the overwhelming majority of applications. We have not given the Special Agricultural Worker program (SAW) the same review because the application period for it runs until December 1, 1988. We have included in the Appendix, however, a mid-term overview of that program.

We have examined the issues central to the outcome of legalization that are within the authority and reach of Immigration and Naturalization Service (INS) and the immigrant-assistance organizations involved in the program.

We believe that the legalization program requires immediate, firm policy intervention. Otherwise, a unique opportunity to bring better order to the nation's complex immigration structure will be squandered. The chance for INS and those who assist and advocate on behalf of immigrants to develop and nurture a cooperative relationship, i.e., one based on mutual respect and appreciation of each other's priorities, may be lost. The Service may also lose the benefit of a new image of efficiency, professionalism, energy, and serious commitment to its service responsibilities that has begun to take hold.

Our specific findings and recommendations fall into six key areas.

1. Public Information

Findings:

- The formal, contracted public information effort has been seriously inadequate. It has concentrated on media only and has not produced an outreach effort necessary to pierce the barriers around many undocumented communities. This represents a serious conceptual flaw in the execution of the public information mandate and a major program deficiency.

- The final publicity campaign that began in mid-January concentrates on two important objectives: (a) create the impetus to apply because time is running out; and (b) supply accurate information about who is eligible, where to get help and how to apply. This campaign is based on a clearer understanding of the requirements and is promising.

- In the absence of an effective, national information campaign with individualized local strategies, public information and outreach was left to INS field staff, churches, community organizations, and the media. The combination of their initiatives has made important contributions to the program.

- The lack of a national strategy for both media and outreach and the lack of a collaborative public-private effort have contributed to large nationality and regional variations. Mexicans have responded best to legalization, and the Southwest has become the program's showcase. Groups which are more isolated from traditional community networks and which did not benefit from special attention in the public information campaign have fared less well.

- Targets of outreach activity which have not been adequately utilized are groups and institutions immigrant communities historically trust or know. They are schools (both teachers and the children themselves who are often their families' main conduit to the majority community), churches, community organizations, unions, employers, and ethnic leaders.

Recommendations:

- A public-private partnership in an aggressive, broad-based public information campaign must be the first priority of all actors at this time. To do this, INS must tap the best available expertise for reaching ethnic communities where application rates have been unacceptable by any measure. Local efforts to reach isolated groups should be encouraged and funded.

- Additional funding and expert assistance should be provided for the campaign the Justice Group has designed to deepen its reach, particularly in targetting specific nationalities.

- Particular effort must be directed at those who have selected themselves out of the program on the basis of incomplete or inaccurate information. People should be urged to seek advice from immigrant-assistance organizations especially if they (a) have ineligible family members, (b) need proof from employers, or (c) have significant employment or other eligibility gaps. The confidentiality protections of IRCA must be heavily promoted with employers who may be the only source of documentation for many eligible aliens.

2. Regulatory Policy

Findings:

- The regulations published in May resulted from an open process designed to achieve maximum participation and exchange of views. Since the application period began, INS has made important adjustments, modifications and clarifications to the regulations. With some exceptions, they have resulted in removing unnecessary barriers to eligibility. However, these changes have not been effectively communicated.

- The policy on ineligible family members will not by itself make the difference between success or failure in the legalization program. It will, however, deter some eligible applicants from filing. Many who have ineligible relatives are applying and more will do so if the publicity planned on this point is effective, and applicants seek advice from assistance agencies.

- Congress should have addressed the family question. However, INS has traditionally treated family cases generously. The INS position on ineligible family members in this program creates the appearance of insensitivity and is the weak link in INS' otherwise successful effort to transform its public image.

Recommendation:

- INS should send a clear signal that it intends to treat ineligible family members as deserving of sympathetic treatment, though ineligible for legalization, on a case-by-case basis. This would legitimize at the national level the practice that is actually taking place in the field.

3. Application Processing

Findings:

- INS has established an efficient infrastructure and an attractive atmosphere in the Legalization Offices (LO's) for processing applications. Interviewing officers and LO managers are courteous and helpful. The LO concept has created a positive, new public image of INS.

- It has taken too long for INS and assistance organizations to reach a common understanding on documentation requirements for cases. Uncertainty persists because assistance organizations are not advised of final decisions and there continue to be inconsistencies among interviewing officers and LO's.

- Because legalization costs must be made up through application fees, the legalization program is driven by cash flow considerations to a degree which could interfere with the success of the program. With applications currently at only 30 to 40 percent of the break-even point, INS may face unpalatable choices. The most dangerous is severe reductions in staffing levels at LO's, especially in many areas in the Eastern United States.

- Until recently, final decisions from the regional processing facilities (RPF's) have been unduly slow. The lack of timely decisions has had three important negative consequences: (a) uncertainty among field staff regarding case preparation remains unresolved; (b) denial decisions will appear in waves making the 30-day period to submit appeals unworkable for legal assistance groups and Qualified Designated Entities (QDEs), and (c) feedback to applicant communities is insufficient to generate new, additional applications from those who are wary even though the 97% approval rate is an extraordinary validation of the application process.

Recommendations:

- Timely final decisions must be the Service's highest operational priority. Good news creates momentum and generates additional applications. Applications filed through November should be decided by the end of February.

- The 30-day time limit for filing appeals should be expanded or extensions of time should routinely be permitted. The challenge for the legal community is still ahead. It must make every effort to organize a system of pro bono legal resources to assist applicants where appeals are required.

- Congress and the Administration must be willing to support sufficient resource levels for INS to ensure that the LO system remains capable of handling a substantial last quarter surge in applications.

4. Immigrant-Assistance Organizations

Findings:

- The partnership envisioned by Congress to assist applicant communities is only now being effectively built. Relationships and cooperation are good in many locations, but national alliances have been strained by mutual mistrust and suspicion.

- Confusion, lack of resources, and a casework or legalistic approach to the legalization program characterized the early program performance of many QDE's. Discouraged by long lines and cumbersome procedures, applicants were encouraged to file directly with INS because of its efficiency, accessibility and publicity campaign, which specifically excluded references to QDE's.

- A broad network of organizations at local levels are involved in legalization though many did not seek status as QDE's because of the government's cost requirements or because they believed their credibility would be undermined by a formal association with INS. QDE's entering immigration assistance through legalization have been quite successful. They adapted to the application process INS established more effectively than did the traditional immigrant-assistance community. That community has been hampered by extremely limited resources and an inability to draw a clear demarcation line between advocacy and assistance. As a result, it has assisted only a minority of all applicants and has been unable to penetrate isolated applicant communities that seriously need its services, notwithstanding an extraordinary effort.

- Legalization has placed an enormous strain on the resources of all traditional immigrant-assistance organizations. About 20 percent of them have withdrawn from the program and many more may follow. Yet, it is now that the QDE role is most crucial. They are being called to develop a new partnership with INS which was, until recently, willing to bypass them in order to guarantee a rate of applications that would recover program costs.

- In most places, about half of the applicants have had formal assistance from either a QDE, an attorney, a notary or a local non-profit organization. Most other applicants have received informal help from neighbors, church members, landlords, teachers, employers and others. Where such help is not available, the program has suffered. The unexpectedly low level of legalization applicants utilizing QDE's has been used by INS to gloss over the very real need for assistance in applying for legalization.

Recommendations:

- QDE's and other assistance organizations should receive as much support as possible so that they maintain operations during the final wave of applications. Their names and services should be prominently featured in all information activities and they should be advised of case decisions so they can assist with appeals.

- Assistance organizations should tailor their operations to produce acceptable, not perfect, cases.

- A more elastic reimbursement or QDE fee structure should be allowed during the final quarter. QDE's are handling the more difficult, time-consuming cases. They may not otherwise be able to bear the cost burden that is being asked of them. In addition, they should be reimbursed for ongoing and new outreach efforts.

5. Numbers of Applicants

Findings:

- The range of persons likely to be eligible for legalization under the general legalization program enacted by Congress is between 1.8 and 2.6 million. Of them, an unknown but probably small proportion are statutorily or regulatorily disqualified.

- The critical data necessary for policy decisions have not been available. Yet, there has been a peculiar but consistent failure by INS to incorporate the data that are available in the planning of the legalization program.

- Mexican nationals have submitted over 70 percent of legalization applications. Salvadorans are a distant second. Program participation is quite high in California and Texas but has lagged enormously in the Northeast. Asians are surprisingly underrepresented among applicants, as are some European groups which had been expected to contribute substantial contingents. Caribbean and Latin American nationals are also far fewer than most observers expected.

- By January 7, 1988, 922,000 persons had applied. There are sizeable groups of eligible applicants who have not come forward. A significant last quarter surge is likely only if aggressive, coordinated steps are taken along the lines we have identified. Even if such steps are successful, however, only a part of the shortfall will be captured.

Recommendation:

- Program success should not be judged solely by numbers. SAW applications should not be counted in reporting the legalization tally.

6. A Final Surge

Finding:

- There is likely to be a surge of applications in the weeks before May 4. If the information campaign is successful and the public-private partnership takes hold, the surge could be substantial and require special arrangements.

Recommendations:

- INS can afford to relax procedural requirements during the final weeks to assure that all who wish to apply can do so. Offices should remain open late into the evenings and on weekends. Policies should be flexible on what constitutes an application. Applicants should be allowed to file a skeletal application before the deadline and supply additional information and material later. During the final days, applicants should be allowed simply to state their intent to file by registering with a QDE or an LO.

- INS should allow the application fee to be paid when the temporary residence card is ready to ease the cost burden of legalization on applicants during the final stage.

- Where only incomplete documentation is available but the applicant's account is credible, INS should allow for affidavits to be personally sworn at LO's to overcome significant gaps.

- So they may help applicants until the final day, non-QDE assistance organizations should arrange to submit applications received by May 4 through a QDE to take advantage of the 60-day, post-May 4 window allowed for QDE's.

- QDE's and INS should work closely and cooperatively after the May 4 deadline and extend the 60-day window if QDE's have applications that have not been completed.

Conclusion

The start-up knowledge and experience required to do legalization took more time than anticipated, but the program has begun to work. If the public information plans and public-private partnership now forming are effective, the case for extension is not compelling.

Between 1.3 and 1.4 million applications are likely to be filed by May 4. This is a shortfall of 300,000 to 400,000 from our most conservative estimate of the eligible population. Thus, the question becomes the degree of effort and level of expenditure the nation should make to reach those additional potential applicants. It is unlikely that the legalization program can reach the number theoretically eligible because of its inherent limitations. The documentation requirements, ineligibility of family members and distant cut-off date pose severe constraints. Even if an additional 300,000 to 400,000 applicants could be reached, the size of the remaining illegal population in the country would be almost twice the number who would have been legalized. Congress' stated objective of mandating legalization to enhance future immigration enforcement cannot be achieved through the program it enacted.

Chapter I

THE CONTEXT

Few issues evoke more emotion in the United States than immigration. Because it evokes reactions about fundamental issues such as race, ethnicity, language, population size, resource depletion, and political culture, political consensus on immigration is difficult to reach. Despite the odds, some possibly far-reaching reforms were enacted in the Immigration Reform and Control Act (IRCA) of 1986. One of IRCA's principal features is the offer of legalization for undocumented aliens in the U.S. prior to January 1, 1982. The application period for legalization is one year. It began on May 5, 1987 and is scheduled to end on May 4, 1988.

IRCA passed only after a protracted and divisive debate. Legalization was central to the compromises that allowed it to become law. The deep disagreements that characterized the debate have carried over into the implementation of the program pitting two traditional antagonists against each other: the immigrant-assistance community and the Immigration & Naturalization Service (INS). The contest is over Congress' intent in mandating a legalization program.

The legalization program is unprecedented in our history. Congress' mandate is straightforward: design and implement a program to allow qualified aliens to "come out of the shadows" and into the mainstream of American society. Representative Romano Mazzoli, Chairman of the Subcommittee on Immigration, Refugees and International Law of the House Committee on the Judiciary, repeatedly emphasized that the alternatives to legalization -- "...intensifying interior enforcement or...mass deportations" -- would be "...costly, ineffective, and inconsistent with our immigrant heritage." (Immigration Control and Legalization Amendments Act of 1986, Report, July 16, 1986: 49). In addition, legalization would "allow INS to target its enforcement efforts on new flows of undocumented aliens,...allow qualified aliens to contribute openly to society and...prevent the exploitation of this vulnerable population in the workplace." (Ibid.)

Mr. Mazzoli's view of IRCA as a "...generous, encompassing, and compassionate bill" (Ibid., p. 209) was shared by other key legislators. Judiciary Committee Chairman Peter Rodino, a co-author of IRCA, consistently spoke about legalization as "fair to the American people" in that it regularizes the "...status of those aliens who have built up equities in this country and have contributed for years toward our economic and social well-being" (Congressional Record - House, October 15, 1986: H 10584).

The Chairman of the Senate Judiciary Committee's subcommittee on immigration, Alan Simpson, IRCA's other co-author, repeated these themes during the final Senate debate on the Bill.

He called legalization "...a necessity if we are going to preserve our scarce INS resources...and...remove a fearful, easily exploitable subclass from our society" (Congressional Record - Senate, October 17, 1986: S 16880). He described the illegal population as that "...whole subculture of human beings who are afraid to go to the cops, afraid to go to a hospital, afraid to go to their employer who says 'one peep out of you, buster, and you are down the road'" (Ibid., S 16893).

The current Chairman of the Senate Judiciary Committee, Joseph Biden, expressed the hope that legalization "will move a growing underclass living in the shadows into the daylight of citizenship and opportunity. These individuals must become full participants in our society, not just the object of our concern.... Immigration has always been in the national interest and the amnesty program in this Bill represents the best of that tradition...[by turning] strangers in our midst into friends and neighbors we trust" (Ibid. S 16914-5).

The Administration, too, supported legalization, largely for the same reasons. Attorney General William French Smith testified in favor of legalization as a "sensible and humane response to the large shadow population of illegal aliens...[and] a practical decision...consistent with effective law enforcement" (Immigration Reform and Control Act of 1983, Report, May, 1983: 87-8). In signing the legislation, President Reagan recalled his long-standing support for legalization and echoed that it

"...will go far to improve the lives of a class of individuals who now must hide in the shadows without access to many of the benefits of a free and open society" (President Reagan on IRCA, November 6, 1986: 1534).

In December, 1986, we convened a consultation at the Carnegie Endowment for top INS executives, leaders of voluntary agencies and ethnic community representatives to meet with current or former senior immigration officials from France, Argentina, Venezuela and Canada regarding implementation of legalization programs. Having all previously administered legalization programs, the representatives of these nations presented key problems which, if unsolved, would diminish the proportion of those potentially eligible who would actually apply. They were as follows:

- an underfunded or inept publicity and outreach effort;
- uncertainty about eligibility requirements;
- employer reluctance to furnish documentation to their undocumented employees;
- limited or ineffective participation by organizations trusted by the immigrant community; and
- an environment of mistrust of immigration authorities.

The foreign experts pointed out that in every instance, the "number of people who applied for legalization was less (by up to one-half or more) than expected" (Meissner, et. al., 1986: 1). On the basis of their comments, we recommended the following:

> Recognizing that estimates of that population are inherently unreliable, for planning purposes, error must be on the side of overestimating, rather than underestimating. In view of

> the inflation of the numbers of undocumented aliens in all of the countries discussed, the INS and service providers must recognize that no one will be fully satisfied with the "effectiveness" of legalization if effectiveness is measured as the probable proportion of undocumented aliens who benefitted. (Ibid., p.1)

A little more than one year later, our guests' experiences are more prophetic than anyone imagined. With the exception of an "environment of mistrust," the problems they identified are central to an analysis of the progress and difficulties the legalization program has experienced in this country.

In this document, we present a national assessment of the legalization program at the third quarter mark. Our methodology was to travel to metropolitan areas where the overwhelming majority of undocumented aliens -- and immigrants in general -- live. They are New York/New Jersey, Boston, Miami/Orlando/Tampa, Chicago, Dallas, Houston, San Antonio, Los Angeles and San Francisco. We interviewed senior INS district and regional staff, INS legalization office (LO) staff, ethnic leaders, directors and staff of key assistance organizations, independent experts, labor union representatives, immigration attorneys, foundation representatives, state and local government officials, foreign consuls, and community leaders. In all cases, we observed legalization office operations and listened to numerous applicant interviews. We asked key questions of all our interviewees, but there was no structured questionnaire. We encouraged all respondents to offer their opinions on any aspect of the legalization program. We relied on interviewer "prompts" to elicit a minimum amount of information about the study's key research questions. These questions included:

- the subject's role in legalization;
- the accomplishments and difficulties of the INS and assistance organizations in the program's implementation;
- expectations about the program and whether/how these expectations fared in reality;
- whether/what they might do differently;
- whether/how local and national pressures are affecting the ability to manage their programs;
- specific issues such as eligibility criteria, ineligible family members, fraud, local working relationships, program publicity, fiscal issues and the pace of applications.

We asked questions about specific ethnic group responses and special programs, such as the Cuban/Haitian adjustment and the legalization of special agricultural workers (SAW), where relevant.

Finally, we convened a group of 32 representatives of national organizations and senior INS officials to review our draft report and add their perspectives based on national program responsibilities.

We have concentrated on the general legalization, also called the pre-1982 legalization, because the one-year application period is the shortest of the adjustment programs enacted in IRCA. Thus, it is the program of most immediate interest and importance because the clock ticks loudest for it.

It is important to note, however, that Congress meted out the legalization opportunity in quite a differential manner and seems willing to continue to do so. Cubans and Haitians who entered prior to January 1, 1982 have two years from the date of enactment of IRCA within which to apply for adjustment. This means that the application window for them runs until November 6, 1988. In addition, their adjustment is directly to permanent resident status retroactive to January, 1982. Thus, temporary resident status is bypassed entirely, and Cubans and Haitians are immediately eligible to apply for citizenship. They, therefore, enjoy a substantial advantage because citizens may request immigration of certain relatives without regard to immigration quotas. For pre-1982 applicants, such eligibility is at least six and one-half years in the future (18 months as temporary residents and five years as permanent residents).

Similarly, the SAW program allows persons who can show that they worked in agriculture for at least 90 days during 1984, 1985 and 1986 to adjust to temporary resident status. Persons who worked in agriculture for 90 days during 1986 only may also adjust to temporary resident status but must remain in that status longer than the previous group. Both SAW groups have 18 months in which to apply for this benefit. This provision establishes different, favorable treatment for another sub-group within the illegal population.

One year later, Congress has quietly added a third special group. Nationals of countries who are allowed to remain in the

U.S. under extended voluntary departure (EVD) since July 21, 1984 have been given two years, or until December 1989, to apply for adjustment to temporary residence. This benefit is available to Poles, Afghans, Ethiopians and Ugandans. This provision is another special measure through which Congress has violated a fundamental principle of immigration policy established in 1965: people should be able to compete on an equal footing without regard to nationality in our immigration system and the law should be free of discriminatory bias based on nationality.

The five-year, January 1, 1982 cutoff date of the general legalization program makes the U.S. program the most restrictive of all the nations that have had similar programs. The closest is Venezuela which had a three-year cutoff; most other nations had considerably less. The more restrictive the requirements, the more difficult the program is to administer and to achieve its purpose. Although the general legalization is to be a generous effort to allow those who had built up equities in the society to come forward, the politics of immigration have shown that some equities are more compelling than others.

It is against this backdrop, then, that we examine the U.S. legalization experience to determine what we have learned and what we must do.

We believe that the legalization program is in danger. Unless there is thoughtful, strong policy intervention, a unique opportunity to bring better order to this nation's complex immigration structure will be squandered. The chance for INS and those who assist and advocate on behalf of immigrants to develop and nurture a cooperative relationship, i.e., one based on mutual respect and appreciation of each other's priorities, is being lost. The Service may also lose the benefit of a new image of efficiency, professionalism, energy, and serious commitment to its service responsibilities that has begun to take hold.

At the same time, the nongovernment immigrant-assistance community is in danger of missing vital opportunities. The most important is the failure to navigate effectively between the Scylla of being indentified too closely with INS (thereby possibly compromising its longer-term credibility) and the Charybdis of failing to assist the largest number of eligible undocumented aliens legalize. The immigrant-assistance community has been unable to build a professional working relationship with the Service. If this does not change, clients' needs and interests will have been sacrificed to a broader political agenda by the failure to separate advocacy from assistance.

Chapter II

THE ISSUES

A. Public Information

One of the central lessons from other nations that have had legalization programs is the importance of extensive outreach and public education. If they had it to do over, foreign experts agreed they would substantially increase the effort and resources devoted to these activities. Congress recognized this and specifically mandated the INS to implement a broad, public information program. Although INS' spending proposal for public information for IRCA was $25 million, it was cut substantially. The final contract award was $10.7 million which is likely to increase to about $15 million before the program ends.

Public information is being done by a California-based consortium called the Justice Group. The contract covers both legalization and employer sanctions publicity, and funding is about equally divided between the two. Some legalization ads appeared as early as April 20, 1987. The objective was to create awareness of the May 5 application date and reduce opening-day pressure on legalization offices. There were TV public service announcements and paid messages for Hispanic and Polish radio.

A full campaign did not begin until June and ran to October. The strategy for this campaign was to build awareness of the legalization opportunity and the emotional impetus to apply. The method was purchased media -- radio, TV and print -- and public service announcements designed to reach specific audiences. About 48% of the media dollars was spent on print advertising (newspapers and magazines) and 52% on electronic media (television and radio). The messages were in 36 different languages and appeared in all major metropolitan areas and many rural areas. The TV and print ads used well-known actors, such as Robert Stack and Eddie Albert, and a popular Mexican soap opera star, Hector Bonilla, saying "to be legal is to live in peace." For Asian audiences, who reportedly respond better to text than to graphics, TV pictured copy written in Asian languages with similar messages.

Phase III of the public information effort began on January 15 and will run until May 4. It is based on market research done during the summer and fall which was not available for the initial two phases of the campaign because of time constraints. The research found the following:

1. There is a high degree of awareness of the existence of a legalization program among the respondents. (More than 90%).
2. INS is viewed as "fair," "honest," "trustworthy," or "helpful" by the large majority of respondents. (About 80%).
3. The principal reasons people have applied for legalization are "make life better," "better paying job," or "closer to being a U.S. citizen." (About 75%).
4. There are three principal reasons eligible people have not applied:
    - don't know how (39%)
    - don't have the money (45%)
    - perceived ineligibility (49%)

(Other reasons such as fear of family separation or of INS were cited by 25% of respondents or less.)

5. The majority of those interviewed who were eligible but had not yet applied would be "very likely" to do so if the deadline were tomorrow. (55% of respondents).

These findings have formed the foundation for the Phase III public information campaign. It has two objectives.

The first is motivational and stresses the impending application deadline. This is done through two TV ads. One uses the theme "Don't Get Left Behind - Apply for Legalization by May 4." It pictures a train station and the message is built on the impending departure of the train. The second, to appear one month later, uses the theme "There's No Future in Staying Illegal - After May 4 You'll Never Be Able to Apply for Legalization Again." It has an alarming quality and is designed to provoke action.

The second objective is informational and features testimonials by persons who have been granted legalization. Explanations of misunderstood or changed aspects of application requirements provide the text. Supplementary materials in question and answer format are also being developed. This component is designed to reach eligible people who believe they are ineligible by attacking misinformation, such as the idea that the program is only for Hispanics or people who are working, that ineligible family members might be deported or that the use of food stamps is disqualifying. "If you haven't applied because of [issue], you may be eligible. Go find out" is the approach. QDE and other information and assistance sources are to be promoted. Designed for newspaper use, the materials will be suitable to be reproduced as handbills, grocery bag stuffers, posters in public buildings and busses, brochures, and signs at sports events and celebrations. There will also be increased reliance on community organizations and existing networks to disseminate materials and engage in outreach.

The statistics and activity reports for Phases I and II of the public information campaign point to extensive coverage. Over 500,000,000 gross impressions were made and messages were placed in 67% of the top 55 media markets in the country. More than $2 million of "free" air time was added, through public service announcements, to the $5 million expended by the government. INS reports that Phases I and II comprised a national campaign that reached "virtually every U.S. market."

These statements and survey results notwithstanding, we were unable to elicit much awareness of or many favorable reactions to Phases I and II in our field interviews. Among the strongest and most consistent critics were INS field office staff who typically observed that they have been responsible for whatever publicity there has been with no assistance from the media contract. Non-government groups believe they could have been effective in reaching applicant communities had they received some funding to build on existing linkages to the affected populations and develop new ones. The general perception, though incorrect, is that most of the media money has been directed to employer sanctions promotion at the expense of legalization.

The Justice Group itself is not satisfied with progress to date. One of the principals recognized that they had insufficient understanding of the Asian community, for example, and should have added an expert on it to their team. In addition to their market research, they claim to have consulted widely with INS field staff and a range of participating organizations to build on their experiences and ideas. We found little evidence of the latter in most areas we visited. Nevertheless, the forthcoming effort is supposed to emphasize flexibility so that materials can be used in a wide variety of ways and intends to use existing organizations and community networks to reach specific audiences at the grass-roots level.

This last element represents a new approach, though its importance was identified at the outset. In its proposal to the government, the Justice Group built its ideas on the proposition that the job "calls for much more than mass media approaches." It calls a Madison Avenue strategy "questionable in terms of audience credibility or true 'reach' for many important sectors ...." To complement the media initiatives, the proposal describes "arrangements for special counseling and miscellaneous support to its planned information dissemination and outreach effort" from a broad range of groups, listed by name, to carry out the public information task.

Whatever these "arrangements" were, they never translated into subcontracts or operational activities nor has there been any effort to coordinate the often considerable individual initiatives of many groups in any consistent, comprehensive fashion. Basic materials such as brochures, for example, are only now contemplated and have not yet appeared.

Effective public-private ventures can be marshalled. New York is a case in point. Because of the exceedingly low rate of applications, foundations, ethnic leaders, immigration experts, local and federal government officials, and churches have pooled their knowledge and resources to mount an outreach effort tantamount to a grass-roots political campaign. Targetting the large Dominican community in upper Manhattan, workers are canvassing neighborhoods to explain the program and invite applications. Organizers hope they can expand the effort to include areas in Brooklyn and Queens. Similar but more nascent attempts are in the offing elsewhere.

The final phase of the public information campaign, which began January 15, places heavy emphasis on the need for media and community-based efforts alike. About $5 million is designated for them. The plans are impressive and appear to reflect the collective wisdom of experience, research and past mistakes.

But the concept of media and community outreach was described almost one year ago. The media campaign that has taken place to date has created a general awareness of the legalization opportunity. But, absent a broad-based outreach element, it has not achieved the public education objective so critical to a successful legalization drive. As the contract proposal observed, "even with massive expenditures of purchased network television and widespread radio time plus full-page spreads in major newspapers....effectiveness [would be] questionable...."

The difficulties were anticipated and a formula for meeting them was fashioned. Unfortunately, it has only been partially executed. Precious time and opportunities have been lost as a result.

Although the government's formal, contract effort has been seriously flawed, extensive parallel information efforts have been underway. They include the following:

1. The press

Newspapers and media in the Southwest have devoted extensive coverage to the legalization story. They have played a vital role in transmitting information and tracking the many changes that have occurred as the program has matured. Some news organizations have made substantial commitments of resources in this area, the most impressive being the Dallas Times-Herald which prints legalization news in both English and Spanish. The ethnic media, particularly Hispanic, has also followed the issue very closely. Church media, too, have paid close attention throughout the country. In contrast, media treatment in most other places has been intermittent.

2. Community organizations, coalitions and churches

Community organizations and churches, as well as coalitions organized to establish local and regional networks to assist immigrants, have engaged in a variety of independent education and outreach efforts.

Generally these have taken the form of information forums, brochures, or seminars and training sessions for individuals wishing to help potential applicants prepare applications. Hotlines have been very successful and open houses in churches or public facilities have been extensive in many areas.

Possibly the most systematic such effort was the registration program carried on in Catholic church parishes through which 450,000 people signed up and received early information about the legalization program's eligibility and filing requirements. For the most part, this number did not result in clients for diocesan QDE's. Many were then apparently able to file on their own or with some additional informal assistance.

Finally, particular individuals have made sometimes Herculean efforts to close the information gap. A former INS Commissioner has spoken at more than 150 events and run day-long training sessions each Saturday for four months. A Mexican consul, who has two weekly radio shows, addresses legalization issues in each segment and aggressively combats what he terms "reptiles" (unscrupulous notaries and lawyers) by doing a running roll-call of their names on the air. There are numerous similar examples.

These independent efforts have received some funding from both national and local foundations, especially in New York and California, and both New York state and California have appropriated modest amounts to fund outreach and casework initiatives. The total amount of such assistance is estimated to be about $5 million.

3. INS

Senior INS district and regional staff were directed to be actively involved in the marketing of legalization to supplement the contract effort. Some have been extremely active, becoming local media personalities in some places. In many locations, INS launched an extensive program of briefings, information seminars, talk-show appearances and events to spread the word. One district director made over 200 such appearances between January and June, 1987. Observers credit him with almost single-handedly creating the large number of applicants in that district. Another is interviewed daily by a radio show from either his office, home or car.

The Western regional commissioner initiated a program in July called Thursday Nite Live. LO's opened for information sessions at 7:00 p.m. each Thursday and INS personnel gave information and answered questions. Well attended, these sessions were especially effective because most INS personnel there speak Spanish. Several districts have recently revived evening information sessions staging Friday night festivals which include refreshments and live media.

In some cases, INS committed funds to support publicity ideas initiated by others (viz. New York's hotline). In San Antonio, it went to a local public relations firm to augment its initiatives. Legalization vans became the focus for a press conference, on-site talk show, and donated cokes and tortilla chips. Vans have been acquired by LO's in many districts. They are brightly lettered and travel to outlying areas or neighborhoods to distribute written information and applications, answer questions, receive applications and broaden the visibility of the legalization effort.

INS has invited media attention for a range of special events. Heralding the logistics miracle of opening 107 new legalization offices, officials celebrated with ribbon cuttings and invited local dignitaries, politicians, celebrities, community leaders, church representatives and the press. Radio and TV shows have broadcast live from the lobbies and parking lots of LO's. Only rarely have the undocumented requested anonymity in these situations. In Houston, the opening of a drive-in window for applicants to obtain work authorization renewals, known informally as McAmnesty, easily attracted great interest. Houston also feted its 50,000th applicant who applied in January. The Los Angeles district director personally delivered a temporary residence card to a 10-year old boy in his hospital bed in response to reports that he feared burial in Mexico away from his family. He died of leukemia later that day. INS' Western regional commissioner and the Catholic Archbishop of Los Angeles are appearing together on two live radio shows to provide information and answer questions on legalization.

In the absence of an orchestrated, comprehensive national campaign drawing on local organizations, such efforts have attracted attention and imparted needed information about legalization in some markets, especially in the Southwest. Senior INS officials have been accessible and have earned respect that helped break down what some have called the "circle of fear" surrounding INS. The fear factor will never entirely disappear, but the personal effort and commitment given by many INS officials is reshaping INS' image in the public eye.

The image transformation is not unrelated to the numbers and differential success of legalization. In the absence of an effective national publicity campaign, the places where the program has been more successful are the places where INS staff have aggressively, publicly sold legalization.

Despite such efforts in some localities, the real public information challenge has not been met. In the absence of a coordinated national campaign with sensitive local programs, INS has so far failed the test of launching a successful and comprehensive public information effort.

This failure of the public information effort to understand and work effectively to penetrate ethnic communities at the local level, as had been called for in the contract proposal, represents a serious missed opportunity. INS' decision to exclude QDE's and other assistance groups from both the planning and execution of the earlier campaigns may prove to have been a momentous miscalculation in the long run. Expertise about the behavior and characteristics of undocumented communities would have allowed the present activities to be in full swing by fall.

INS has apparently recognized this deficiency. The ambitious public information effort just now beginning offers some hope that the Achilles' heel of legalization may be repaired. Unfortunately, it is six months late. The issue now is whether the current campaign can bring about, in the time remaining, the surge of applications needed to achieve a success. The challenge is to reach persons in the more isolated ethnic communities and those whose claims are tenuous for lack of adequate documents or special problems. These are the people who are now of concern.

B. Regulatory Policy

Among the lessons from other countries is the importance of adjusting regulations wherever possible to build on experience and respond to unforeseen developments. Given the cumbersome process for rulemaking in the United States, this is a difficult principle to uphold. Nevertheless a substantial degree of adjustment has occurred since the application period began.

Promulgating regulations to govern the legalization program was a major undertaking. The Service is rightfully proud of the process it established to assure wide participation and the exchange of views among interested parties. It allowed for an open season to advance ideas during the two months after IRCA was enacted. It then circulated draft regulations in January, 1987 in advance of the traditional publication for comment in the Federal Register of proposed regulations. This was done to circumvent a lengthy formal comment period that might delay final publication. As it was, the draft regulations were published as proposed regulations in March; the final rules were published on May 1, 1987, four days before the application period began.

INS' procedure provoked some criticism from sister agencies also charged with drafting regulations under IRCA and was not sanctioned by the Office of Management and Budget, the arbiter of rule-making matters within the executive branch. However, the procedure created an opportunity for all parties to get an early indication of the government's thinking and stimulated extensive comment and participation. Interested groups formed coalitions; task forces were organized to pool legal expertise and prestigious law firms provided pro bono analysis and opinions on a wide range of issues. The statute is complex and gave little guidance on a series of important issues. Open exchange was critical and the regulations as ultimately published reflected an evolution in the government's thinking on a series of key points which might not otherwise have been possible.

Although the process was, in the words of one long-time actor, "exemplary," it did not prevent strong policy disagreements between the parties. Antagonists during the years of debate over IRCA, immigrant-assistance groups and INS clashed repeatedly on key regulatory issues. INS made significant adjustments in its initial positions, but when the final regulations were published, several important issues were still vigorously contested and disagreements over regulations continue to this date.

In the months before the application period began, the regulatory issues of central concern included application fees, the definition of "brief, casual and innocent" absences allowed by Congress, the definition of "known to the Government," which programs would be classified as "public cash assistance," the requirement that aliens be physically present in the U.S. after the November 6, 1986 enactment date, standards for granting waivers, and whether applicants would be required to relinquish original documents.

Many of these issues have receded from the agenda either because of consensus or because they seem not to be causing problems. For example, although the total cost of legalization to the applicant continues to be a concern, the INS fee is rarely disputed anymore. The issue of physical presence was resolved with an INS instruction that absences before May 1, 1987 would not constitute a break of continuous residency. Another instruction specified that applicants should retain original documents and present them for examination or copying at their interview when they would be returned.

Not all of the early issues (viz. "known to the Government,") have disappeared. But the real regulatory story is the story of issues that have arisen since the application period began and of modifications to the rules since they were published May 1.

A summary chart appears as Chart 1. We have selected for discussion the issues that may affect significantly the potential numbers of eligible applicants.

Chart 1

Regulatory Policy Summary

	Issues	Date
1.	Texas DWI (driving while intoxicated) cases - accept despite felony classification.	June 16
2.	Stateside criteria cases - departure from U.S. does not interrupt continuous residency.	July 14
3.	Foreign students with Duration of Status (D/S) - eligible if study completed before 1/1/82.	July 14
4.	Waivers - clarification of humanitarian, family unity, public interest grounds.	Aug. 6
5.	HIV testing - announcement of requirement as of 12/1/87.	Aug. 8
6.	Asylum applicants - eligible if filed before 1/1/82.	Aug. 19
7.	Diplomatic and international organization visa holders (A&G visas) - eligible if employment ceased before 1/1/82.	Aug. 25
8.	Felony - treated as misdemeanor where state so defines and sentence is less than one year (resolves #1 above).	Sept. 8
9.	Public charge - clarifies standards, public cash assistance.	Sept.20
10.	Known to the Government - court decision overturns regulation. Applies in Dallas district only; government not appealing.	Sept.22
11.	Re-entry - eligibility for unlawful non-immigrants who re-entered U.S. with valid visa.	Oct. 8* Oct. 28**
12.	Ineligible family members - guidelines for use of Attorney General discretion	Oct. 21* Nov. 13**
13.	Foster care - considered public cash assistance but not sole determinant of public charge.	Nov. 10

14.	HIV testing - instructions to physicians	Nov. 18
15.	Interim rule - publication of regulations incorporating policy changes above.	Jan. 17

* Announced
** Written instruction to field

1. Foreign students. Since 1979, visas for foreign students, once issued for fixed periods -- usually four years, have been issued for what is known as "duration of status" (D/S). This means that the visa is valid for the duration of time that the individual is enrolled in a full-time course of study at an accredited institution. The INS does not know when the visa period expires unless the institution notifies it that the student is no longer enrolled.

On July 14 the INS ruled that foreign students with D/S who completed their studies before January 1, 1982 and remained will be considered eligible if they can produce documentation from the school or similar proof. This decision opened up the program to many originally thought ineligible. Foreign students often overstay and are generally not located because their educational and language skills allow them to function effectively here.

2. Waivers. In addition to showing continuous illegal residence since January 1, 1982, legalization applicants must qualify for admission to the U.S. as immigrants. Immigrants are excludable for a series of statutorily enumerated reasons such as criminal record or mental impairment, for example. IRCA grants INS the authority to waive certain exclusion provisions for "humanitarian purposes, to assure family unity, or when it is otherwise in the public interest." The regulations speak only to the family unity criterion, defining it as limited to immediate family, i.e., spouse and children.

As atypical cases began to appear, the question of INS' attitude toward waivers became pressing. "Humanitarian purposes" and "public interest" were addressed in a memorandum to field offices on August 6, 1987. However, the attempted clarification has not provided sufficient answers and widespread uncertainty remains in this area. Waiver issues will become increasingly important in cases that are denied as applicants appeal.

3. Asylum applicants. Between 1977 and 1982, the number of applications for political asylum filed with the Service grew from about 3,700 to more than 50,000. Due to resource constraints and inattention, the large majority were not decided for several years. Once adjudicated, about 70% of cases were denied. Because conditions in the countries of origin of the major applicant groups -- Iran, Nicaragua, Poland, El Salvador -- are difficult and repressive, most remain to appeal the asylum decision or take their chances as illegal aliens.

During the pendency of the asylum application, applicants are not subject to removal and are eligible to receive work authorization. Arguably they enjoy attributes of lawful status and are therefore not in unlawful status. However, in an instruction of August 19, 1987, the Service held that persons who filed for political asylum prior to January 1, 1982 will be considered in an unlawful status known to the Government. They are thus eligible for legalization benefits.

This decision is particularly relevant to Central Americans. Although most have arrived since 1982, substantial numbers began arriving in 1979. Those who filed for political asylum are now not ineligible for legalization.

4. Felony convictions. On September 8, INS amended the definition of a felony. For immigration purposes, "felony" is defined as a crime punishable in the United States by imprisonment for more than one year. the new rule establishes an exception: crimes classified by states as misdemeanors where the sentence is less than one year shall be treated as misdemeanors for purposes of legalization eligibility.

The issue is important in Texas, for example, where DWI (driving while intoxicated) is a misdemeanor punishable by a sentence of two years, a felony under immigration law. Legalization is barred for persons convicted of three or more misdemeanors or one felony offense. The Texas cases were technically felony convictions though imprisonment was rare and sentences were short.

The numerical impact of this change is not substantial outside Texas and some smaller states, but the problem-solving approach it demonstrates is noteworthy.

5. Public charge. To be admissible as an immigrant, an applicant cannot be excludable on any of the grounds of exclusion specified in IRCA. One important ground is the likelihood the

alien will become a public charge. IRCA specifies that the public charge test is met if the applicant shows "a history of employment in the United States evidencing self-support without receipt of public cash assistance."

In a September 20 memorandum, INS pointed out that the determination of public charge should be a "prospective evaluation." In addition, it specified that public cash assistance includes only "needs-based monetary assistance" and not in-kind assistance such as food stamps, public housing, other non-cash benefits, work-related compensation or a range of medical services. In addition, educational assistance used for schooling purposes is exempt as are foster care payments.

Questions about public charge continue because of the technical character and variety of welfare and social services programs that exist. In addition, there are some specific problems, such as illegal alien children in foster care, that need resolution. However, field staff in both immigrant assistance organizations and Service legalization offices have by and large reached a common understanding regarding the public charge question.

Because the illegal alien population has traditionally sought access to social service systems of all kinds far less frequently than other persons of similar age, sex and income, the public charge issue has a limited quantitative impact. Still, the INS stance on this issue demonstrates operating policy that is inclusive and reasonable while adhering to the statutory language INS must carry out.

6. Known to the Government. A federal district court in Dallas, Texas decided on September 22, 1987 against INS regulations interpreting "known to the Government." The decision applies only in that federal district. The court held that INS' position that "the Government" means only the INS is "impermissibly narrow" and that the statutory language was intended to be "at least broad enough to include the Internal Revenue Service and the Social Security Administration."

On this issue INS imposed conditions that constrict the number of certain potential applicants. For many non-immigrants, corroboration of unlawful status resides in federal records but not in those kept by INS. For example, a non-immigrant who has worked for a sustained period has committed a substantive violation of his visa. Records of tax and social security payment withholdings would verify his claim but are not acceptable because that information was not known to INS. Such facts are common among various categories of non-immigrants.

The regulation has been fiercely contested by attorneys, in particular, and continues to be a subject of strong disagreement and litigation. It is impossible to know how many people are precluded from legalizing by this regulation. Our best estimate, based on information from attorneys who have worked with these cases, is that it is in the range of 30-50,000 persons. This regulation is one where Service policy prevents a specific block of people who have been in unlawful status since 1982 from being able to produce the evidence necessary to claim legalization.

7. Re-entry. Eligibility requirements were substantially expanded by an October 8 announcement that individuals unlawfully in the U.S. since January 1, 1982 who, "subsequent to a brief, casual, and innocent departure from the United States, reentered the United States as a non-immigrant in order to return to an unrelinquished unlawful residence," would be eligible to apply.

The situation addressed by this instruction arises because, except for Mexicans and many Central Americans who travel overland to the United States, aliens who may be here illegally sometimes depart to tend to family business, etc. They then typically obtain valid visas, albeit improperly, to return to the U.S.

The re-entry decision has not seemingly generated as substantial a number of applications as had been anticipated. This is very likely because the applicants are still bound by the 45-day limit for "brief, casual and innocent" absences. People who leave the U.S. and must go through the visa process to re-enter often remain away for more than 45 days. Their travel is recorded in the passport so there is minimal maneuvering room for the applicant.

In retrospect, then, the re-entry change has probably had less numerical impact due to the corollary constraint of the "brief, casual and innocent" regulation. This is one element in the mix of factors applying more directly to aliens in the Northeast and to Asians as a group. They are the groups most likely to have benefitted from the re-entry decision; yet they are the groups that remain the most dramatically underrepresented in the applicant pool.

8. Ineligible family members. IRCA calls for applicants to be individually eligible for legalization. It is silent on the question of relatives of eligible aliens who are themselves ineligible. Migration typically occurs in stages, family members arriving one or several years after the principal migrant. Split eligibility within families has emerged as a central issue.

In recent months, Congress has twice turned down measures to extend legalization to family members or insulate them from deportability. Activists say they intend to raise the matter again when Congress reconvenes in 1988.

The question of of how the INS would handle ineligible family members festered for months while individual district directors announced either that they would treat cases of ineligible family members sympathetically through their discretionary authority, or that they were awaiting guidance from Washington. On October 21, INS announced that it would exercise the Attorney General's discretion in behalf of minor children who are ineligible where both parents (or a single parent due to divorce or death) qualify. In cases where one parent or a spouse is ineligible, discretion could be exercised if compelling or humanitarian factors exist but not by virtue of the marriage or hardships caused by separation alone. The premise is that equity should be preserved between the benefits accorded legalized aliens and immigrants petitioning for the entry of family members from their country of origin. For immigrants, family visas sometimes entail substantial waiting periods during which they must be separated.

It is difficult to distinguish between viewpoint and fact in analyzing the quantitative impact of split family eligibility. Field personnel report that they have handled many cases where aliens have applied and have listed ineligible relatives on the application, as required. Hence, some segment of the eligible population has decided that a foot-in-the-door is better than standing outside because their relatives can at least adjust status at some future time. This group apparently accepts INS' assurances, anchored in the statute, that information on the application is confidential and cannot be used for enforcement purposes.

INS believes that there is only a small number of split eligibility cases that are holding back. They have established a procedure to review requests for discretionary relief and only

51 have been presented; all have been approved. Some immigrant assistance agencies see it differently. Their rule-of-thumb is that about half the applicants they are now seeing have the split family problem. About half of those, after counseling, accept the perceived risk and apply. Since only a small proportion of the caseload is being served by these agencies, however, this ratio cannot be applied generally.

We were able to find three other clues, and they are inconclusive. In surveys carried out in three cities (Lubbock, Newark and Boston) by Catholic assistance offices during November and December, substantial pluralities of eligible applicants with ineligible family members in Newark and Boston reported hesitancy in applying. But after some delay, persons submitted applications. In Lubbock, however, only one respondent indicated the same degree of hesitation. The fact that the population surveyed was already interested at least in obtaining information about the legalization program further weakens the value of the results.

The second clue is a November informal survey of Catholic parishes in Los Angeles carried out by the United Neighborhood Organizations. It found that perhaps as many as 30 percent of persons who registered in spring, 1987 with the church as prima facie eligible had not applied due to split family concerns.

Finally, market research performed to assist the publicity effort, laboring under similar statistical limitations, shows that one-fourth of those eligible to apply who have not done so give split eligibility as the reason.

Ironically, data on this issue available to INS from the I-687 application form could provide the clearest indication of the magnitude of this issue. For reasons which are inexplicable, these data have not been key-entered. In a survey carried out by the Manhattan LO late last year, only a handful of about 1,700 applicants had ineligible family members shown on their legalization applications. If this result is indeed correct, it might provide evidence for those who argue that eligible aliens with ineligible family members are indeed holding back.

By far the most polarized of the disagreements between the government and immigrant advocates, the family issue has entered the larger political debate as the litmus test of commitment to a generous legalization. The policy on ineligible family members has probably deterred a substantial number of applicants from filing. But many are ultimately likely to file as part of the final surge if publicity on this point is aggressive and eligible applicants obtain responsible assistance.

The confidentiality provision of the statute provides sufficient protections and there is no evidence of removal of family members. Nor is there likely to be any because district directors have traditionally been generous in the exercise of discretion in family cases. "We are not in the business of splitting families," is an oft-heard declaration from them.

It is therefore doubly unfortunate that the family question has become such a fractious issue. The INS need only have underscored that split eligibility cases would not be subject to a blanket policy but would be reviewed on a case-by-case basis and handled, all things being equal, as ineligible for the legalization benefit but deserving of sympathetic treatment. This would have confirmed at the policy level what is in fact happening at the operating level. Notwithstanding either the issue's proxy quality or its actual impact on legalization applications, INS' treatment of the family issue constitutes the weak link in its efforts to develop and nurture a new public image.

* * * * * *

Taken together, the picture that emerges regarding regulatory policy is one of flexibility where adjustments, albeit slow in some cases, have continued to be made to clarify insufficiently developed rules or remove technical or substantive barriers to eligibility. The two notable exceptions are the interpretation of the phrase "known to the Government" and the policy toward immediate family members in split eligibility cases.

Their combined effect on the legalizing population is difficult to quantify. The response in the Northeast has been very low as has been that among Asians everywhere as a group. In both instances, the majority of the potential pool are persons who originally came to the U.S. as non-immigrants and became overstay cases largely unrecorded in INS records (see Table 3). It is fair to conclude, then, that a more flexible definition of "known to the Government" would create conditions for more applications. Nonetheless the number would likely be no more than 50,000.

In the case of ineligible family members, we conclude that the majority of those who receive some counseling from immigrant-assistance agencies will eventually apply before the program ends. However, since only about one-half of the applicants to date have sought formal counseling, the policy does deter applicants, particularly where the district director's record on split family cases is not well known or publicized. That deterrence can only be counteracted by a sympathetic policy and an agressive public information effort.

With these exceptions, the regulatory policy story has been one of positive adjustments based on experience. "We were all looking down the same blind tunnel," said one senior INS official. The byword has been flexibility and the regulatory record reflects it to a substantial degree.

But for every silver lining there is a cloud. Although INS has often been flexible and responsive, the reach and extent of changes it has made have been sufficiently broad as to create a new and urgent need for the changes and their implications to be effectively communicated. The peak volume of applications was reached in August. Most of the critical policy shifts that could tap sources of applications from people perceived as initially ineligible were not announced until August or later when the parameters of the program had already been established in the undocumented communities' mind. Subsequent receipts do not reflect an awareness of the expanded criteria that have been established. Specific, factual, clear messages to targeted audiences must be a top priority during the final quarter so that persons who perceive themselves to be ineligible but might, in fact, qualify can take advantage of the very real adjustments that have been made.

C. Application Processing

The House Judiciary report on legalization states that "unnecessarily rigid demands for proof of eligibility for legalization could seriously impede the success of the legalization effort." This reflects a theme that appeared throughout the legislative debate and in other nations' experiences.

The statute that Congress enacted makes the principle difficult to implement. With an eligibility date reaching back to 1982, the most conservative of any program carried out to date, the applicants' task to produce a paper trail and INS' responsibility to evaluate the adequacy of the claims present major pitfalls. It is not surprising, then, that issues growing out of the application process are an important element in assessing program success.

As hectic as it was for the government to promulgate regulations in advance of the May 5 starting date, the effort paled next to the demands of establishing 107 new offices.

INS decided to physically separate the legalization function from other INS functions. This meant that site selection, space and equipment procurement, and personnel recruitment and training on a massive scale had to be accomplished. Because the application processing system was to be more highly automated than traditional INS operations had been, it also required systems design. Nor could the effort be entirely independent of the regulatory process. Tasks such as printing millions of application forms depended on designing forms to elicit information specified in the regulations.

Despite the difficulties, INS management pledged to open the new Legalization Offices (LO's) on time and open on time they did. Staffing was not always completed, furniture arrived during ribbon-cuttings and telephone installers sometimes outnumbered applicants. Nonetheless, on May 5, 1987, INS was open for business.

By establishing offices solely dedicated to legalization, the Service was able to transform its public image. LO's are generally located near or in neighborhoods where potential applicants live. Ample parking or access to public transportation was a priority in site selection. Hours have been flexible with many offices open daily from 8 a.m. to 6 p.m. Saturday and evening hours were frequent during the early months when the volume of applications was high.

The LO's are spacious, with large waiting and reception areas attractively furnished. The INS interview officers sit behind a long counter separated from each other by sound-proof dividers but in full view of applicants in the reception area. When an applicant is called forward by an interviewing officer, the interview is carried on in an atmosphere of privacy, but the overall activity takes place in a setting of openness and welcome.

Most of the personnel that serve as interviewing officers are new to the Service and have been trained solely for the legalization function. Of 2000 new positions, there is a ceiling of 300 for former INS or other retired government employees. These persons are primarily in supervisory positions in the LO's. The interviewers generally begin the interview by introducing themselves and saying, "I'm here to help you with your application today." Privately, interviewers typically say "my job is to help them qualify, if at all possible. We were taught in training that Congress didn't want us to be rigid. They wanted people to come out of the shadows of society."

Career INS personnel involved in the program are openly proud of the offices and operation they have set up. Comments such as, "This is the first thing the Service has ever done first class," or "It's a good law," or "Legalization is all I have to worry about; it's wonderful," abound.

The investment in a new image and the change in tone has paid off. Applicants do not seem to be fearful of coming to INS offices and have sought advice directly from the agency. One Mexican consul, who works with the undocumented community, explained, "The word is out. They know they can come in to the INS without risk. They understand that the program is being done

60

fair. INS has understood the need to change and be more open and accessible. There's always a fear factor, but INS has done well in diminishing rather than increasing it."

During the early weeks, only a trickle of applications was filed. The pace quickened dramatically during June and July, hitting a peak of 54,000 regular legalization applicants in the last week of August. (See Charts 2 and 3). Since August, there has been a steady decrease with the low point having been December when only 84,000 persons applied for the five-week period beginning with November 30 and ending on January 1. The pace of January receipts has quickened somewhat from fall levels, and the Service continues to expect a surge of applications during the program's last quarter.

It is commonly agreed within INS and among assistance agencies that the summer numbers represented the strongest, most well documented individuals in the applicant pool. They were prompted to apply by September 1, the date when the first phase of employer sanctions enforcement began and obtaining a work authorization card was pressing.

Despite the high numbers, the first quarter was marked by confusion, misinformation and inexperience among all the parties. This was most directly reflected in case preparation and processing. Many of the early problems have been resolved, but some critical problems remain. They are the subject of this discussion.

Chart 2. Regular Provision Legalization Applicants (I-687)
By Week of Application
LOSS data as of January 8, 1988

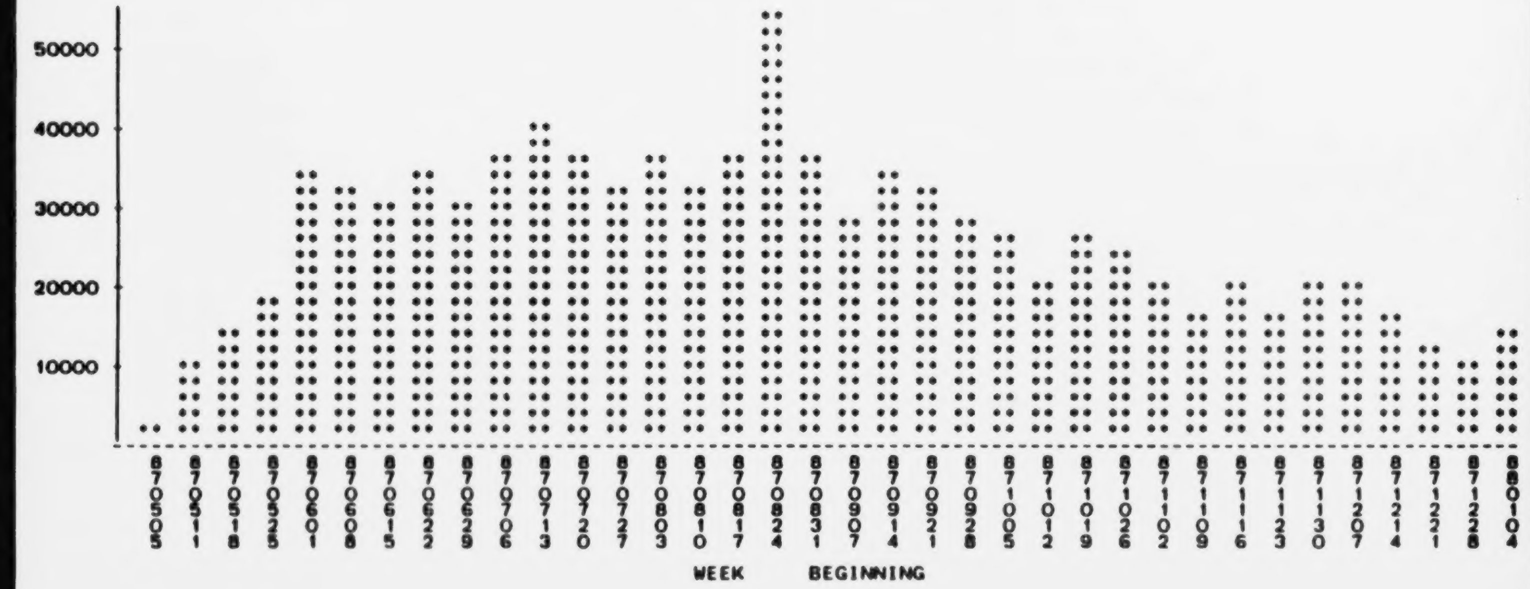
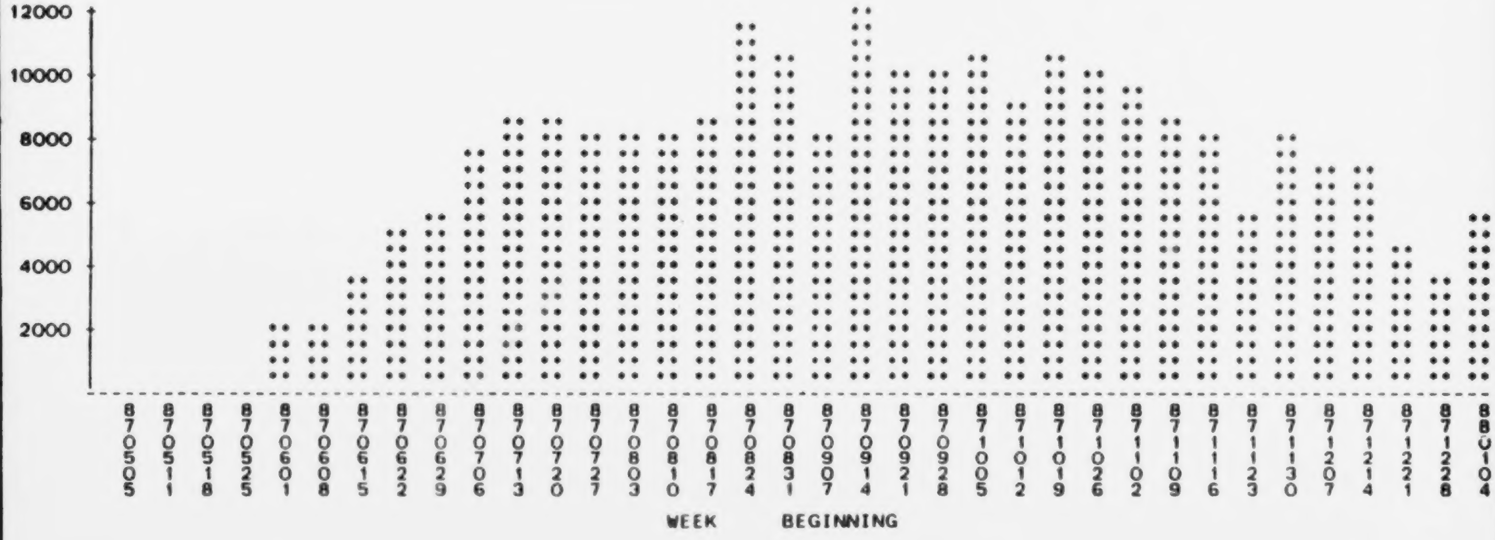


Chart 3 Special Agricultural Worker Legalization Applicants (I-700)
By Week of Application
LOSS data as of January 8, 1988



Cases are submitted to INS at the LO's. If the applicant is represented by an attorney or had assistance from a QDE or other organization, he or she may be accompanied. The LO accepts applications, interviews applicants, issues and renews 6-month work authorization cards, and recommends approval or denial of cases.

1. Evidence and documentation

The legalization applicant must establish three things: identity, continuous unlawful residency and financial stability.

The most straightforward is identity which is proved with a birth certificate, passport, marriage certificate, photo ID card or similar document. Typically the identity requirement does not pose problems.

The requirement to demonstrate financial stability is usually satisfied by evidence of current employment. This can be a letter from the employer or copies of tax returns or pay receipts. For homemakers, the requirement can be met by an affidavit of support from the working spouse. If evidence of employment is presented, the question of public charge excludability is answered. If not, questions regarding public cash assistance come into play. Since the undocumented population is overwhelmingly a working population, the financial stability requirement has also proven not to be a serious problem for the majority of applicants. However, it poses more difficulties than the identity criterion, due to noncooperation by some employers. In addition, some eligible aliens have been fired or lost jobs since the enactment of IRCA -- at times due to a "Catch-22" situation where overly eager employers required work permits before May 5 -- and are unable to find new ones without documents due to employer sanctions.

The requirement to demonstrate continuous unlawful residence since January 1, 1982 is at the heart of legalization. This requirement is the most difficult for applicants to meet. It is the primary source of uncertainty among assistance organizations and applicants and frequently results in inconsistency among individual INS officers and respective LO's.

The problem is twofold: (a) how much and what type of evidence is sufficient; and (b) what can an applicant do when he or she does not have sufficient evidence.

Documentation issues have vexed immigrant assistance organizations throughout the program. The inexperience of both LO and QDE personnel was painfully evident at the outset and was to be expected. But the shakedown period has lasted for months and seems to have ended only recently when the peak volumes had already passed.

Beginning in July, INS tried to establish a reasonableness standard in its communications to field offices. "Large, voluminous submissions of documents are not necessary. It is not necessary to document each day in the life of an alien...the preponderance of the evidence standard must apply...[It] shall depend not on quantity alone, but also on the credibility and amenability to verification." At the same time, the July 7 memo states that QDE's know that "if they submit unprepared cases, they are subject to loss of their QDE status." This specter served to keep QDE's erring on the side of caution.

As late as October, a memorandum to field offices repeated that the area of concern "most frequently noted to INS" has been the extent of documentation that is sufficient to demonstrate eligibility. Emphasizing the importance of case-by-case discretion, the October 9 instruction observed that it has led to "inconsistent documentary requirement practices...with some offices establishing superregulatory guidelines and rules of thumb that impose unintended impediments." Accordingly, an information sheet and check list to guide applicants and assistance organizations was forwarded. That material had been developed and circulated among some field offices as early as August but had not had system-wide distribution.

With this guidance, a modus operandi seems to have been reached and LO staff and assistance organization personnel report that the confusion has diminished appreciably. But, this has occurred late in the game and important differences among interviewing officers were still apparent during our field visits in December and January.

INS has resisted setting hard and fast rules on documentation to preserve flexibility so that applicants may present a wide variety of proofs. Accordingly, in addition to pay and employment records, INS accepts such items as utility payment records, church and union records, children's immunization cards, school report cards, postmarked personal correspondence and copies of prescriptions. Where primary records of this kind are not available, INS will accept affidavits from employers, physicians, clergy, and others. Relatives or neighbors may also submit affidavits, but they are viewed as less reliable witnesses.

Such flexibility is important, and INS is correct in insisting that there be no precise formula. However, there are inconsistencies among officers and offices that go beyond acceptable limits of discretion. Three important ones that we observed are as follows:

--Tax forms. Some officers accept the Form 1040 as sufficient proof of employment. Others require that the 1040 be accompanied by a W-2 form because "the 1040 is available in any library, after all."

--Affidavits. Some officers accept affidavits alone, particularly if there are several from a number of sources more reliable than relatives and friends. Others will sanction affidavits to fill the gap of a year or two, for example, only if coupled with other primary evidence.

--Frequency. Some examiners require at least one piece of evidence for each year since 1982 as the minimum standard. Others ask for evidence to pin down each quarter of the five-year residency period.

These represent substantial variances that should have been addressed and resolved by now. Doing so would not unduly restrict the rules on documentation, curtail individual discretion or threaten the effort INS has correctly made to remain flexible on forms of evidence. Unaddressed, variances such as these perpetuate uncertainty that was to be expected early in the program but should no longer be apparent.

For persons who cannot amass any or amass insufficient evidence, the problem is more difficult. In general, the undocumented population has been unaccustomed to recordkeeping and has often purposely avoided leaving a paper trail. As one officer observed, "We don't ask blood, but we need something."

The "something" comes down to the employer. In the absence of other evidence, an applicant's work history and residence can be established through work records. Generally, large employers have been cooperative, providing copies of their records or supplying sworn affidavits. Levi Strauss has gone so far as to set up a loan program so that employees can borrow up to $1000 to cover application expenses.

However, two problems have developed. First, a substantial number of employers refuse to assist, usually because they have kept incomplete records, have not properly paid withholding or social security taxes, or have violated such Labor Department rules as minimum and overtime wage requirements. The groups of applicants who appear to be most adversely affected by such refusals are women who work in individual households doing child, handicapped or elderly care and single men whose work history has been episodic -- principally odd jobs or work in the underground economy.

The second problem stems from the fact that many undocumented aliens in large cities work in small, ethnic service establishments employing less than five workers. It is well-known that the failure rates of these businesses are enormous, and wages are routinely paid in cash. Former employees of such businesses have none of the reliable documentation required by the INS and must resort to applications which are truly weak or decline to apply at all.

The latter group of applicants can only be helped through relaxed criteria and the extraordinary efforts of QDE's combined with the positive predisposition of LO staff. Where employers refuse to cooperate at first, some will help when convinced that information provided to INS is confidential and neither can nor will be shared with other government agencies. As an IRS representative said, "This is an immigration law, not a tax law." Attorneys and caseworkers who have contacted employers directly in behalf of particular applicants report that employers are more likely than not to provide affidavits when a personal appeal is made. But most applicants do not get the benefits of such assistance unless they obtain the careful counseling which only QDE's can offer. So other avenues of assurance must be established.

INS is considering sending letters to individual employers in key target groups (service industries, agriculture, and firms employing under 100 employees) emphasizing the confidentiality of information and appealing for cooperation. This problem is susceptible to publicity and must become a priority in the Phase III campaign. Overcoming employer reluctance by urging cooperation based on confidentiality could go a long way toward minimizing this large documentation barrier.

2. Regional Processing Facilities (RPF)

Based on the evidence applicants submit and the interview, the LO makes a recommendation to approve or deny a case. Reviewed by LO supervisors, cases are then referred to a data input center in Kentucky where keypunching for the automated systems is done and required security and other records checks are initiated. Case files then go to one of four regional sites known as regional processing facilities (RPF). It is at the RPF that the results of these checks and existing INS files (the A-files) are matched so that the final adjudication can be made. Decision letters are sent from the RPF and, if the case is approved, the applicant returns to the LO to exchange his or her six-month work authorization card for the 18-month temporary residence card. If denied, he or she is given the reason and 30 days to submit an appeal to the RPF.

To date, the RPF's have been unable to complete cases in the six months built into the case processing design. With 922,456 applications filed, 348,000 or 37.7 percent have been decided by the RPF's. And this rate has only been established in the past month. Prior to January, only about 15% of cases filed had received final decisions. This delay has serious consequences for INS, assistance organizations, the applicants, and potential future applicants.

INS has been attentive to the RPF problem and cognizant of the system weakness it represents. On September 18, INS advised field offices that "production" at the RPF's "continues to be a major concern." It observed that "to clearly establish to the public, press, and Congress that the legalization program is successful, a dramatic increase must be seen in the number of final adjudicative decisions." A number of steps were outlined to address this problem. On November 10, the Deputy Commissioner reemphasized the priority offices must place on A-file searches and outlined a procedure for completing the adjudication at the RPF if the A-file is not located after 90 days.

The delay has been the result of several factors including personnel recruitment, hiring and training, difficulties with the automated systems designed to produce the records checks, and wide variances in the quality of the LO recommendations.

Two examples are illustrative. When an applicant's name appears in FBI files, the fingerprint card must be forwarded from the RPF and compared with the Bureau's fingerprint records to determine if there is a match. This is a labor-intensive process. The "hit-ratio," as it is known, that requires sending and perusing cards, has been higher than anticipated in the planning. Thus, FBI resources have been inadequate to handle the volume. Similarly, the planning assumptions were that 25% of applicants would have existing A-files which would have to be located in other INS offices and forwarded to the RPF's for examination. Instead, about 40% have previous files that must be located. Because poor records systems have been a chronic Service problem, the often unsuccessful search for large numbers of files has been a serious impediment to timeliness. In most cases, the records in these files will corroborate information in the application; locating them is the difficulty.

Also unanticipated was the degree of RPF review of LO work that would be required. Plans called for a review of all denial recommendations, all cases with an A-file or other records, and a random review of LO approval recommendations. Instead, the early LO performance was so inconsistent that INS decided to review all approval recommendations. This slowed up the process further.

In December, a 50% random review protocol was instituted and RPF managers believe a quality case review can be assured while further lowering the proportion to a random 10-20 percent review. This is because of the unexpectedly low level of fraud in legalization (in contrast to the SAW program), and the experience and confidence the LO's have developed toward producing a quality product.

Setting up the RPF's was an enormous task. If two million applications are received (the figure which INS says will apply), it would represent a fourfold increase in the annual adjudication volume ever handled by the Service. An important reassurance for applicants was built into the application processing system in that authorization cards for applicants are immediately issued at the LO's when applications are filed. Valid for six months, the cards are now being renewed when the RPF decision is not delivered before the expiration date. RPF managers have made an impressive effort to get the centers up and running, and believe they are overcoming their problems. Indeed, the rate of final decisions in recent weeks has outpaced the rate of new applications.

Nonetheless, RPF delays have been the main bottleneck in the application process. Their importance cannot be overemphasized. The immediate consequence has been the need to renew the six-month temporary work authorization cards. Contacted by mail one month in advance of the expected expiration of the card, applicants are advised to return to the LO for it to be renewed. This creates an additional administrative burden for the LO and applicant alike.

More broadly, timely decisions bring with them two kinds of critical feedback. The first regards documentation. If the recommendations made by LO's are largely ratified, caseworkers and LO staff proceed with confidence that their work is properly done. As it is, a nagging uncertainty continues to pervade this process, despite impressive efforts by all parties to resolve very real problems, because the jury is still out. The approval rate of 97% is an extraordinary validation of the application process and should set any lingering doubts to rest. But it will not serve this purpose until the verdict is clearly in.

The second type of feedback is that to the undocumented community. In the end, the most persuasive publicity is testimony from a similarly situated friend, neighbor, relative or co-worker who successfully applied and reports, one-to-one how he or she did it. The ripple effect caused by a profusion of temporary residence cards in undocumented communities has long been understood to be the best way to generate additional applications.

For all that INS has achieved with LO's and for all the struggle that has gone into establishing common understandings regarding documentation, unless final decisions are delivered more quickly, the feedback to applicant communities that is vital in generating new applications from those who are wary is insufficient. The benefits of an important internal dynamic of the application process are therefore wasted.

3. The Balance Sheet

The infrastructure the Service has created to handle legalization has been impressive but expensive. One of the first skirmishes between INS and Congress shortly after IRCA was signed concerned how the costs of legalization would be paid. The House immigration subcommittee has a proprietary interest in the legalization aspects of IRCA because it crafted the proposal that Congress ultimately adopted. At its first oversight hearing on IRCA in December, 1986, committee members objected to the Service's report that legalization would be implemented as a self-financing program funded through application fees rather than by Congressional appropriation. Members objected, stating that was not their intent. However, the executive branch pointed to the provision in the statute that called for fee "payments [to be used] to cover administrative and other expenses incurred" implementing the legalization provisions. Similar language did not appear in the provisions for SAW workers or Cuban-Haitian applicants. Thus, the Service determined it was mandated to operate a program financed by reimbursements from application fees.

Although correspondence on the issue was exchanged, the Committee shortly dropped the issue. Sometimes administrative decisions such as this explain powerful forces that drive bureaucratic behavior. In the case of legalization, the interpretation of the statute resulted in a self-financing program. This decision has been at once the angel and devil for officials responsible for its execution.

The essence of self-financing is that the level of expenditures for a particular activity cannot exceed the revenues (the legalization application fee in this case) paid to the government for the service it provides. Agencies operating self-financing programs make a quarterly prediction to OMB of the amount of revenues they will receive. They may spend up to that level. If they do not receive the estimated revenue, their costs or spending are immediately curtailed.

Because self-financing programs are independent of the Congressional appropriation process, INS was able to proceed immediately with the considerable spending needed to get the legalization offices -- and all that the application process entailed -- up and running. From this vantage point, the self-financing mechanism was, as one official stated, "a genius decision that made us the envy of federal agencies" because Congress did not enact supplemental appropriations until late July, 1987. Had the Service been dependent upon an appropriation, the program would have been virtually doomed when it began, for the level of spending required to build the infrastructure that has been created could not have been committed. In this sense, self-financing has been an angel.

But if reimbursement or revenues from application fees fall short of the quarterly estimate, program managers and programs are in serious trouble. The overriding objective, then, is to produce fees so that the program can continue to operate. The driving force in legalization was application levels by fiscal year quarter sufficient to support expenditures for that period. Therein, the devil.

The Service built an infrastructure that would be able to handle 3.9 million applications. This number was at the very high end of any reasonable projection of the possible number of applicants that might be eligible. Nevertheless, INS did not want to be caught caught short. If there was to be any error, it would be on the side of overestimating rather than underestimating, a prudent judgment at the time decisions had to be made.

Fees to support this capacity, however, were calculated on an estimate of 2 million applicants, a number more solidly grounded in mainstream analysis. A calculation of 2 million applicants and the costs of an infrastructure that could handle 3.9 million resulted in the fee of $185 per applicant.

In this way, the stage was set for accounting considerations becoming an overriding factor among the pressures that impinged on INS managers. Soon after the application period began, it was clear that the pace of applications was not up to the level required to meet revenue needs. Expenditures for the requisite fiscal periods were $100 million. As the danger of not achieving that level loomed, INS focused on QDE productivity, the bottleneck slowing the flow. Because the QDE's and other assistance organizations were not as ready for business as INS and did not accommodate as readily to the demands on them, INS had to "strike back," in the words of one senior official, to save the program.

From the vantage point of its responsibilities and constraints, it made the proper decision at that point in doing everything it could to get applicants to come directly to LO's. Applicants responded and the pace of receipts accelerated sufficiently by the close of the fiscal year to balance expenditures. INS barely "squeaked by," said one official. But it ended the year with an excess of $4 million, i.e. a 4% margin, moving into the black only seven days before serious program cutbacks would have been required.

The problem persists. At the present rate of just under 4000 applications per day, revenues from fees are not sufficient to match expenses. An average daily rate of 6,200 was needed to reach the break-even point during the last fiscal year. Thus, current production would have to increase to about 9000 per day to achieve the rate INS took in when it just "squeaked by." According to one budget official, legalization is in "severe financial trouble." Unless something dramatic happens to turn it around, the agency is faced with making further cutbacks in offices and personnel to keep costs in line with fee receipts.

This is particularly relevant in the eastern half of the U.S. where some LO's have already been closed and LO staffs have been reduced. INS insists it has sufficient flexibility between the LO and district office structure to meet expectations of a final quarter surge. Nevertheless, staff reductions all but make certain that when a surge occurs, especially in the areas where response has been particularly slow, personnel resources with the proper training and experience will be inadequate to handle the demand.

Life-saving in the short-term, the decision to bypass QDE's where possible has had important negative effects for application levels over the longer term. As the more difficult cases emerge, a network of agencies that can provide casework assistance is essential. Intense outreach is needed now more than ever. However, the credibility of the assistance organizations was not nurtured. The psychology underlying this early break effectively precluded the kind of public-private partnership envisioned in the statute and, while there has been a cease-fire, the schism has not been repaired. Each is marching to a different drummer: for the assistance organizations, legalization is a human services program; for the Service, it is a balance sheet.

In retrospect, the reality of the balance sheet reinforced line program managers' natural propensities for short-term, tactical decisions rather than the pursuit of an overall strategic framework in which legalization is but one element in consolidating immigration reform and the Service's priorities in a post-legalization era.

A more durable approach might have been to both recruit direct filing of applications and preserve the integrity of QDE's by allowing the system to self-regulate. Instead, protracted conflicts between INS and the QDE's brought INS to the point where it felt it could win the battle of trust with applicants and could therefore afford to cut loose from the QDE's. Compelling at the time, the shortsightedness of this approach is increasingly apparent to most observers, including many in INS.

D. Immigrant Assistance Efforts

Fear and mistrust of immigration authorities by illegal immigrant populations characterized most countries' legalization programs. Whether or not such fears are well-founded, they strongly influence the behavior of aliens and create a serious impediment for the success of legalization programs. Congress recognized this problem and addressed it in the statute by providing for a layer of organizations trusted by immigrant communities to serve as a buffer between applicants and the INS. Awkwardly named Qualified Designated Entities (QDE's) in the statute, such organizations were to be certified by the Attorney General and provide assistance to prospective applicants in preparing their applications.

There were strong antecedents for this model in refugee resettlement programs and immigrant services activities where churches and other organizations, termed Volags (voluntary agencies), had traditionally counseled immigrants and refugees on their immigration rights and options. They helped prepare applications for adjustment of status, immigration of relatives, or naturalization, which were then submitted to the Service. These efforts have historically been constructive and the relationship between Volags and the Service has generally been a healthy one.

Accordingly, INS plans for legalization placed heavy reliance on the role QDE's would play in assisting applicants as a middleman between the government and applicants. Expectations were that as many as 80% of applicants might apply through QDE's, and early INS cost estimates included substantial amounts to reimburse QDE's for their services.

The underlying mutual trust and respect required for an effective partnership such as was envisioned by Congress has not been built. It is a failure that will not be easily overcome. Antagonists during the years of debate preceding the passage of IRCA, the nongovernment groups and INS harbor deep suspicions about the underlying objectives of the other that neither has been willing or able to set aside. The assistance agencies consistently argue that INS' enforcement and service missions are incompatible and that INS is an enforcement agency at heart; therefore it can not live up to Congress' vision of implementing a generous legalization program. For its part, INS repeatedly points out that the immigrant-assistance groups play both a casework and advocacy role. Officials believe the advocacy overshadows and diminishes the immigrant-assistance commitment. They further believe the advocates eschew any limits to the legalization opportunity, simultaneously organizing to defeat employer sanctions in the future. This mutual suspicion has severely hampered the ability of each to establish a working relationship with the other predicated on a shared goal of outreach and effective assistance to achieve the highest possible legalization application levels.

Although mutual suspicions have been long-standing, three events took place in the months after IRCA was signed to galvanize the schism:

1. The cooperative agreements

To be designated a QDE, organizations were required to submit applications to INS in which they set forth their experience and competence in preparing immigration applications. Their role was threefold: to give information, to counsel and advise applicants, and to assist in preparing applications. In return, they were to receive reimbursement from the government. The cooperative agreement is the document that serves as the contract for this relationship.

Financing the relationship became the first big trouble spot. INS plans for implementing legalization had gone through several iterations since first described in 1982. Each had provided for cost reimbursement contracts with the QDE's. This was based on the refugee resettlement model. Such contracts allowed for organizations to receive a set amount per estimated number of applicants plus additional funding for administrative costs and other services. Accordingly, the national immigrant-assistance organizations, who had operated in this fashion with the government for many years and were expected to play a major role in legalization, were prepared to present cost reimbursement proposals to the government to establish QDE operations.

In January and February, 1987, the Service began to revaluate the cost reimbursement approach to the considerable consternation of the traditional organizations. INS decided to change the financial arrangement and announced it in March. Reimbursement was to be made strictly on the basis of the actual number of applications submitted by QDE's. Organizations would receive $15 (always the per capita figure that had been used) for each application submitted and an additional $1 for other costs. QDE's would be allowed to charge applicants no more than $75 for their services. This was subsequently modified to allow for additional charges for photographs, extra counseling and certain other services up to a ceiling of $160. To help the QDE's get started, the Service agreed to advance up-front money at the rate of 80 cents for each applicant they expected to produce. Actual checks for those amounts were transmitted in June.

The change in the nature of the cooperative agreement and the late date at which it occurred was a major disruption in the assumptions that had governed the thinking of the traditional organizations and that had become embedded in their immigrant-serving operations. They never imagined that the government would alter the basic plan. For its part, the government believed these organizations had become complacent in their refugee work. Legalization was not to be a grant-making program where private organizations made good off the government. In addition, the Service believed it was operating in the best interests of applicants by controlling costs for the services they received.

One result was that numerous national organizations or local affiliates decided not to apply for QDE status because, unless they had separate funding, they believed they could not survive under the cost formula that had been established. Some of them dropped away from the legalization effort altogether; others remained in local coalitions doing outreach and advocacy or established legalization assistance programs as non-profit organizations, setting their fees in line with their forecast of costs. In general, they charge $200-$300 to applicants for information, counseling and application preparation.

Another result was that some of those who did seek QDE status organized their operations late, considerably after INS, because they were unwilling or unable to commit resources without knowing the financing arrangements that would govern their operations. Granting that there were no benchmarks for either the INS or the organizations, the INS did have, as one QDE representative said, "the full faith and credit of the government behind it." The QDEs had nothing. That was a fundamental difference.

As it was, substantial funding was committed by some of the major players. Well over $30 million was advanced, the largest share being the $25 million invested by the Catholic church.

QDE applications were due April 15 and certifications were made May 1. The Service received more than 600 applications and granted about 550. The policy was to approve QDE applications wherever possible to allow the largest number of actors to participate in the legalization program.

2. The regulations

Although there was wide participation in the regulation-writing process, the open process did not translate into strengthening the relationship between the government and the immigrant-assistance community. The organizations played their strongest advocacy role in this process and bitterness was the legacy. INS felt this advocacy was incompatible with the QDE role as adjuncts of the Service (through the cooperative agreements), and the advocates believed the Service was taking deliberately hard positions in furtherance of a strategy to start tough and loosen up over time, sapping the energies of critics and perpetuating uncertainty in the meantime. Thus, the regulation-writing process, though open, aggravated rather than healed old wounds.

3. The early weeks of business

INS was ready, albeit somewhat tenuously, on May 5. The QDE's were not, and, given the chain of events during the preceding months, it was practically impossible to imagine that they could have been. They had started late and were the first line of contact for prospective applicants. All the pressure was directed at them. With literally tens of thousands of phone calls and sizeable backlogs of names awaiting appointments, they quickly became the problem.

The resultant logjam set the direction the program has taken since. Applicants initially went to the QDE's and did not get quick service. INS saw low application numbers and chaos in the QDE's and became alarmed. By late May INS took general actions to encourage applications being filed directly with LO's and in June, INS decided to eliminate mention of QDE's from the unfolding media campaign because it felt that encouraging applicants to go through these organizations would only jam the system further.

Sufficient cases were filed in the following months to keep the program financially viable. At the same time, the credibility of the QDE's suffered deeply. Although working relationships between assistance organizations and LO's have been largely repaired, a sound public-private partnership has not evolved.

A number of QDE's have scaled back their operations or gone out of business altogether. Between 75 and 80 percent of those originally certified continue to operate. The single largest is the Catholic church which was always the leading Volag. In legalization, it produces half of the applications that come through QDE's.

The next largest players have been organizations that did not exist prior to legalization. One was formed by growers' associations on the West coast to aid SAW workers, and is called Aliens Legalized for Agriculture (ALFA). The second is a private immigration agency headquartered in Miami but with offices in Chicago, Houston and Los Angeles. Although together they account for less than 10% of the QDE business, they demonstrate an important, unforeseen point. The organizations that have turned out to be most "successful" as QDE's are by and large organizations that have not historically been involved with immigration or other social services matters. They saw applicant assistance as a business proposition much as the INS saw management of the program. They organized H&R Block-type operations giving applicants help but concentrating on volume and productivity.

The Catholic effort remains the largest and it therefore serves as a useful case study to illustrate further the problems of the assistance organizations. The United States Catholic Conference's (USCC) Migration and Refugee Services Office (MRS) and its more than 100 Diocesan affiliates (primarily operating under local Catholic Charities organizations but also under Catholic Community Services and Hispanic Affairs' offices directly responsible to each Diocese) projected that about 1 million persons would utilize its structure, about half of all QDE applications. These projections were based on the by then widely circulated INS capacity figure of 3.9 million qualified undocumented aliens and field estimates which were greater than INS' own figures. When the cooperative agreement was signed, the USCC received an advance amount of $800,000. In return, it was to design a program for its affiliates, provide them training and technical assistance, and act as the affiliates' liaison with INS in Washington. The affiliates, in turn, were to receive $16 per application submitted. Three dollars of that amount were to go to USCC while the remaining $13 were to remain with the affiliate submitting the application. This model was essentially duplicated for other QDE's with a national organization.

The application period began with key policy and legal questions unanswered. There were wide variances of interpretation that were unresolved. For all but "open-and-shut" cases, the early regulatory confusion and fluidity of INS operating policy severely hampered application assistance efforts. Many of the problems stemmed from the inherent difficulty of implementing a complex legalization program: statutory language is ambiguous and thus subject to various interpretations even among intelligent observers who may concur on the issues.

During the six-month program development period, the Catholic church made an ambitious effort to implement a system of offering clients high quality counseling and legalization services and still manage a high volume program. A comprehensive model was developed which became the foundation for an extensive training program involving four newly-staffed USCC regional offices. The national staff and a cadre of new attorneys offered affiliated diocesan legalization personnel extensive on-site training and organized five national teleconferences. Training covered the new legislation itself, the service model, INS regulations, and program administration. The centerpiece of the program model was a parish-based effort relying heavily on church volunteers to assist undocumented aliens with a pre-application form and disseminate information about eligibility and documentation requirements.

Concurrently, a computer system was offered to the dioceses which served both an immediate and a long-term function. In the short-term, it was to assist thinly-staffed offices handle larger volumes of legalization business. In the long run, it would become the linchpin of a broader system that integrated immigration and refugee services. This would pave the way for staff consolidation between the church's two distinct operations and would enhance efficiency in the future. The approach was strikingly similar to the automated systems and case processing techniques introduced by INS in its LO-RPF model. The scale and visibility of legalization created the opportunity for both to introduce significant modernization and infrastructure investment with benefits to be felt well after legalization would end. Visionary as it was, the system's design and implementation suffered substantial delays, as has the RPF operation, and several offices did not become computer-ready until early in June.

Overall, the church committed almost $25 million and USCC loaned more than $500,000 to indigent dioceses so they could establish legalization programs. Moreover, the church fully appreciated the significance of legalization for an important part of the church's constituency (the Spanish-speaking) and its institutional responsibility to assist the newly legalized during the next phase of adjustment to permanent status and beyond. The explanation for the low numbers of applicants that ultimately sought formal assistance from the church, however, lies deeper within the structure of the Catholic church and its relationship with the INS.

As we travelled throughout the country, we were reminded time and again how the decentralized INS management structure shapes local legalization programs to an extraordinary degree. A similar dynamic shapes and explains the Catholic church's response to the legalization program. If INS is decentralized, the Catholic church is even less of a monolith, at least when it comes to providing social services. Bishops have absolute administrative authority in their dioceses, and the legalization program, with a few notable exceptions, did not become a priority item for many of them or their social service coordinators. In some instances, such as Miami, the preoccupation with the Pope's visit may have pushed the priority of the legalization program further down the list, and the performance of that office clearly reflects this (about 500 applications). On the other hand, the direct reference to the legalization program in the Pope's homily in Los Angeles probably helped the church effort throughout the nation.

In some cases, in the absence of strong leadership from the bishop, lesser church officials allowed the program to become mired in turf and personality battles until, recognizing the serious danger to the program, the bishop intervened to right the ship (the Chicago model). In many cases, the cumbersome and perceived bureaucratic nature of the application process motivated some activist parish priests with deep roots in their communities to bypass their own QDE system, sometimes with INS' encouragement, assist their own parishioners and anyone else who came to them with an application, and take them directly to the LO.

Finally, the volunteer-based program, necessary as it was to handle the projected volume, had drawbacks inherent in volunteer systems: they require high morale, considerable training and accuracy. The technical training and knowledge required of volunteers to handle documentation requirements and the organizational, management, and communication skills needed to utilize a volunteer work-force effectively are substantial. Although several of the more successful local programs (such as the Brooklyn diocese) continue to utilize volunteers in a significant way, most programs did not adopt the model. Some of those that initially did, abandoned it as their case "pipelines" dwindled.

A number of additional unique insights about the Catholic church's approach to legalization can be gleaned from an August 21, 1987 MRS communication to the field. Alluding to field reports that local LO directors and interviewing officers were exhibiting considerable flexibility in interpreting documentation requirements, it observes that the INS "...now appears to be following a program administration course that is at considerable variance with the substance and tone of both the regulations and the public posturing of some of its top officials." It acknowledges the Service's new image of "openness, reasonableness, and cooperativeness" at the LO level and of the need to devise and implement "philosophical and practical changes" in the church's own program. It cautions church personnel not to be "reticent" in recognizing that "adversarial" rhetoric aside, nurturing good working relationships with local LO's are to the benefit of legalization clients. It urges them to adopt and modify the church's service model to adjust to local district and LO requirements and to institute streamlining techniques designed to help applicants complete their applications "in the shortest and most expeditious manner" short of abdicating their social service or legal responsibility.

This memorandum emphasizes the church's commitment to the program and the need for extensive outreach by each diocese, and gives INS credit for what it calls the "apparent non-issue of mistrust." It exhorts church legalization program administrators to keep their programs in operation as long as possible. It then predicts that when things become more difficult for the INS "...you and your staffs will be asked to become the final guarantors of the program's success" by assisting with the preparation of the difficult cases and using the Church network to reach those ethnic communities which have had very low levels of participation. Finally, it discusses and recommends to program administrators a number of improvements likely to have the most direct impact on diocesan programs. They are:

1. Extensive but supervised reliance on volunteers is crucial, not only to relieve overworked professional staff but also as a tool for allocating and deploying all of your resources more efficiently.

2. Outreach requires constant effort; it must be focused, must tap church resources and infrastructure effectively (especially parish-based programs), and must rely on community contacts which may already exist but remain underutilized.

3. Establish, nurture, maintain and enhance your relationship with the LO's., Remember: the better you make them look, the more they will come to rely on you. This helps your clients and your program.

4. Work closely with local LOs in anticipating and resolving problems, especially with documentation. Find out what LO management and staff are focusing on (having problems with?) and adjust accordingly.

5. Do not anchor your projections on pre-registration figures. Many of those who accessed your system earlier have applied directly to INS and therefore are no longer part of your applicant pool.

6. At the same time, do not be overly concerned about the shape of your pipeline at this time. Process with expedience the people who come to you, but take steps to "recruit" into your system new applicants by "word of mouth" and an extensive outreach campaign.

7. Make no rash staffing decisions. In any decisions you make, be certain that your projections are grounded in reality and your priorities are clear. It is too early either to declare victory or raise a white flag.

8. In cases where problems persist in establishing the necessary environment of trust with applicants, take the necessary steps (focusing on individual attitude and demeanor) to resolve them. If there are "signs" telling clients that we are either indifferent or officious, remove them.

9. Remember each of us carries a responsibility that goes beyond the programmatic success of our own individual operation. How the entire immigration and refugee service delivery arm of our church will be perceived in the future and, as a result, our ability to develop and run other programs in this service area hang in the balance.

An important dynamic was at work here. The USCC has neither line nor program authority over its diocesan offices. The national staff offers planning, expertise, information, coordination, and general technical support services to dioceses. It is up to the dioceses whether to accept direction. Leadership is through persuasion and example. In legalization, both of these powers have been tested to their limits.

Several additional areas deserve mention. MRS reacted to the widespread expectation that the complexity of IRCA required a national staff versed not only on policy matters but also capable of offering substantive legal support to the diocesan immigration structure which often lacked access to legal advice. Accordingly, it assembled a new cadre of attorneys. That shift affected the overall tone and complexion of an operation which had long been run by social service professionals (some of whom were, parenthetically, also attorneys). The skills required to respond to the draft and proposed regulations reinforced the wisdom of that approach. But at the operational level, while INS viewed the program as one of mass processing a large volume of business, the Church and many other QDE's continued with an attitude reflecting the social service professional's "case-load" method or the attorney's adversary approach. Our field interviews revealed that this difference in outlook continues in varying degrees to date.

Another subject of note is the regular, bi-weekly meetings between each QDE National Coordinating Agency (NCA) and the INS. INS had resisted holding these meetings, and the atmosphere in the early sessions was, by all accounts, unpleasant and confrontational, often serving as a forum where each side could vent its frustration against the other. From the point of view of NCA representatives, the INS was uncooperative and controlling. During the late summer months (when the turnout was at its peak and the INS believed legalization could be successful without the QDE's), INS officials were reportedly aggressive and condescending. From the point of view of INS officials, NCA representatives misused the forum by taking issues of disagreement to the press and insisting on accountability and clarification long after questions had been answered. They say that conflict was confined to a narrrow group and that the forum was an effective vehicle for responding to developing field problems. In their eyes, significant regulatory and policy shifts flowed from these meetings, a more important test than perceptions of tone or attitude.

Fundamentally, NCA-QDE's in general failed at times to draw and honor the necessary demarcation line between advocacy and service. While both are appropriate activities for immigrant-serving organizations, separating the two is an essential element in offering services to a population in need. The rhetoric and clamor of Washington was all too often recreated in the field.

Statistics show that between 20 and 25 percent of applicants to date have received formal assistance through QDE's. This share has increased steadily in recent months as most new applicants no longer have "open-and-shut" cases of eligibility and seek assistance. In our interviews with INS officials throughout the Eastern United States, we were told that at least 40 percent of the applicants had received formal QDE assistance. About 6 percent of all cases to date have been submitted by attorneys, with Eastern United States sites again running several times that number. About an equal share of applicants obtain assistance from other sources, frequently from immigrant-assistance organizations who have chosen not to become QDE's. This is a point which LO directors openly discuss but INS program statistics ignore. Thus, about half of all applicants have received formal assistance of some kind either from QDE's, lawyers, notaries or non-profit organizations.

The Catholic church, for instance, did not assist with the actual preparation of legalization applications for the majority of those who initially turned to it. It did serve very effectively, however, as a source of information and guidance on legalization when there was a dearth of reliable information. Through extensive parish information nights and pre-registration drives, as well as through information emanating out of its regular immigration service offices, the church filled a publicity void that allowed thousands to file applications based on the preliminary information and assistance they were provided. By the church's own count, nearly 450,000 potentially eligible aliens received vital information through the church network. This is typical, at a lesser scale, of most QDE's and other immigrant serving groups.

At the same time, many individuals who sought guidance lost patience with programs that, in the words of the MRS memorandum, may have involved "...too much caution, too many delays, too much overcrowding, too many steps, too much 'bureaucracy.'" In the face of a new INS image of openness and efficiency, people had an incentive to go directly to the INS. The traditional organizations offered quality counseling and legal assistance when much less could have and does usually suffice. The church's volunteer system, finally, raised unreasonable expectations about the system's ability to handle a large volume of business well and quickly. Expectations failed the test of reality when people were asked to appear for interviews many weeks and sometimes months after filing their pre-applications.

Under the circumstances outlined in this chapter, QDE's have managed an impressive, if not uniformly successful, effort. As the legalization program enters its final phase, the MRS August 21 memorandum appears prophetic in its expectation that the INS would seek the church's assistance to reach remaining applicants. Such "outreach" goes beyond recent INS efforts to attract the moral imprimatur of church heads in Boston, New York and Los Angeles. It is a belated recognition that the perception and reality of a fair and successful legalization program hinges on the availability of assistance which only the immigrant-assistance community can provide.

E. The Number of Applicants

It is easy to get lost in the details of the debate about numbers on undocumented aliens. Yet, numbers are one of the few yardsticks by which the success or failure of the legalization program will inevitably be measured. Already one hears comments that the U.S. has legalized more people than all other countries with legalization programs combined. Such comments are misleading and irrelevant because they ignore factors such as the isolation and insularity of Australia, for instance, or Canada's accessibility to immigrants at the time of that country's legalization program (early 1970s), or the border controls and associated work and residence permits which European states utilize. Further, they ignore the size of the U.S. labor market and altogether miss a very important point, namely, that the U.S. has a minimum benchmark figure in the 1980 Census estimates which it can use as a starting point in estimating the size of the undocumented population.

We want to make several points about numbers in general clear from the outset. Our assessment of the effectiveness of the legalization program uses numbers only as a guide and aid, rather than as a precise measure of program success or failure. The extensive effort which follows, estimating the approximate range of the population potentially eligible for legalization, is an attempt to set broad parameters for the general discussion about the legalization program. We use these parameters mainly to identify apparent anomalies and engage in some admittedly speculative exercises in attempting to explain what seems particularly unusual. Where numbers become important, then, is when program administration and regulatory issues suggest that a problem exists -- and the numbers reinforce this perception. Finally, we make no assumptions about the size of the undocumented pool that may meet the statutory eligibility deadline of January 1, 1982 but fail to qualify because of additional statutory and/or regulatory requirements. In our view, the regulatory adjustments and clarifications made so far should have shrunk that pool of individuals to a few percentage points.

The fundamental problem with estimating numbers of undocumented aliens occurs because the population is clandestine. Therefore, we cannot know the size of the statistical universe. As a result, one must use indirect estimates of the universe based on several imaginative -- but nonetheless "soft" -- statistical procedures. In addition, one must make several additional assumptions about the evolution of the undocumented population since April 1, 1980, the date of the last decennial census. It is these and related issues which make the question of numbers vexatious.

Table 1 presents one approach to determining the number of undocumented aliens likely to be eligible under IRCA's legalization program. Census Bureau researchers have used a residual method to arrive at an estimate of the number of undocumented

TABLE 1

Low and High Range Projections of the Number of Undocumented Aliens Other Than Special Agricultural Workers (SAWs)(a) Likely to Qualify under the Legalization Program of the Immigration Control and Reform Act of 1986, Selected Key States (in thousands)

	1980 Census Estimates (4/1/1980)	Adjustment for Undercount in Census Estimates for those Entering Before 1/1/1975 (10% of 1,116)(b)	Adjustment for Undercount in Census Estimates for Post-1975 Entries (37.5% of 941)(c)	Adjusted Census Estimates for Undocumented Aliens Residing in the U.S. (4/1/1980) [(4)=(2)+(3)]	Probable Growth in the Undocumented Population (4/1/1980 to 1/1/1982) Estimates(d)		Adjusted Estimates for Undocumented Aliens Residing in the U.S., 1/1/1982 Estimates(d)		Other Adjustments: (A) Emigration, Including Deportations High (20%) Low (10%); (B) Adjustments of Status(f) High (10%) Low (5%); (C) Mortality High (2%) Low (1%) — Total "Other" Adjustments	
					Low	High	Low	High	High (32%)	Low (16%)
									2,697	3,047
United States	2,057	1,228	1,294	2,522	175	527	2,697	3,047	1,834(g)	2,560(h)
Arizona(1)	25	-	-	32.5	14%(e)		37.1		31.2	
California(1)	1,024	-	-	1,331.0			1,517.3		1,274.3	
Colorado(1)	19	-	-	24.7			28.2		23.7	
Florida(2)	80	-	-	92.0			104.9		71.3	
Illinos(1)	135	-	-	175.5			200.1		168.1	
Maryland(1)	32	-	-	41.6			47.4		39.8	
Massachusetts(2)	17	-	-	19.6			22.3		15.2	
New Jersey(2)	37	-	-	42.6			48.6		33.1	
New York(2)	234	-	-	269.1			306.8		208.6	
Texas(1)	186	-	-	241.8			275.6		231.5	
Virginia(1)	34	-	-	44.2			50.4		42.3	
Washington(2)	22	-	-	25.3			28.8		19.6	

TABLE 1 (continued):

(1)States with a high overall proportion of Mexican and Central American undocumented aliens have their totals adjusted by 30 percent to reflect the higher probability for undercounting highly concentrated ethnic groups in large urban areas and residents in rural areas. The "other" adjustments categories are estimated to be in the low column principally due to (a) lower emigration rates, (b) relative ease of border crossing if apprehanded and deported; (c) for Central Americans, the high incentive for re-emigration due to the unstable political situations in their home countries; and (d) lower rates of family unification and adjustments of status due to their overall lower place in the labor market (lower likelihood of labor certifications), and low naturalization rates.

(2)States with a more varied and diffuse nationality representation of undocumented aliens (Caribbean and South Americans, Asians, and Europeans) have their total adjusted by 15 percent for the Census undercount to reflect the less heavy concentrations of single ethnic groups in these locations. The "other" adjustment categories are estimated to be in the high column because of high emigration and adjustment of status rates for many among these groups.

(a)In view of the itinerant nature of agricultural work and the sojourner characteristics of the undocumented agricultural population, the Census estimates for undocumented aliens enumerated in the Southwest in 1980 are unlikely to include more than a few agricultural workers. As a result, we do not include SAWs in these estimates.

(b)Assuming that longer-term residents are more stable and hence more likely to be enumerated by the Census.

(c)Assuming that more recent residents are more likely to live in ethnic neighborhoods in large urban areas and hence less likely to be enumerated by the Census.

(d)Estimates based on a range of 100-300,000 annual net additions to the U.S. undocumented population.

(e)Estimated as the midpoint between the low and high estimates for growth in the undocumented population between 4/1/1980 and 1/1/1982 (351,000), as a proportion of the adjusted Census estimates of 2,522,000.

(f)Through marriage, family unification (within and outside numerical limitations), and labor certifications.

(g)Lowest number of potential eligibles.

(h)Highest number of potential eligibles.

Sources: Warren and Passel, 1987; Passel and Woodrow, 1984, 1988; unpublished data, Statistical Analysis Branch, INS.

aliens counted in the 1980 Census by comparing the census count of the foreign-born population with estimates of the legally-resident foreign-born population for the same year. The estimates for the legally-resident foreign-born population were based on data collected under the INS' now defunct Alien Registration System, adjusted for underreporting and INS naturalization statistics. The difference (residual) between the two figures, 2.057 million, represents the estimated number of undocumented aliens counted in the 1980 Census (Warren and Passel, 1987).

The Census Bureau makes no assumptions about the undercount of the undocumented population. Local users of these data, however, have tried to refine Census estimates by speculating about the undocumented population undercount by state and Standard Metropolitan Statistical Area (SMSA). For instance, New York claims that Census estimates for its undocumented alien population may have been underestimated by 200 percent. An attempt to test the Census figures for undocumented aliens in California, based on school enrollment figures, has put the undercount at 493,000 immigrants. The vast majority are assumed to be undocumented (Muller and Espenshade, 1985: 37-42, 197).

While no numbers about undocumented aliens are clearly defensible in a strict statistical sense, they are useful as guideposts in the evaluation of the legalization program's progress. In Table 1 we offer our scenario and assumptions about the universe of those undocumented aliens who are probably eligible for legalization under the main legalization program. We find the range for that population to be between a low estimate of 1.834 and a high estimate of 2.560 million persons. The midpoint estimate is 2.197 million persons. Individuals qualifying under IRCA's Special Agricultural Workers (SAW) provisions are not included in these figures. This is because the itinerant nature of agricultural work and the greater difficulty in accurately enumerating rural populations combine with the sojourner characteristics of the undocumented agricultural population to make even the most basic assumptions about the accuracy of counting that population highly problematic.

A number of the other assumptions which entered into the development of Table 1 must also be highlighted. We make different assumptions about the Census undercount on the basis of the enumerated population's date of entry. Those entering before 1975 (1.116 million persons) are presumed to be more stable, less likely to be found almost exclusively in ethnic neighborhoods of large urban areas, and hence less likely to have been missed by census enumerators. The undercount for that population is set at 10 percent. By contrast, post-1975 arrivals (941 thousand persons) are assumed to have the opposite characteristics and their undercount is set at 37.5 percent, the high range of undercount estimates. One can introduce additional refinements by estimating undercount figures per ethnic group and location.

Mexican undocumented aliens in Southern California, for instance, may stand a much better chance of being missed by census enumerators because of the high concentration of Mexican-origin population in the area. Such efforts, however, are largely futile as they involve a large element of faith before they can be accepted. Nonetheless, we have attempted to be sensitive to some broad assumptions about specific ethnic nationalities in our estimates of undocumented aliens by states. They are reported in the bottom half of Table 1.

Similarly, the estimates of the growth of the undocumented population between 4/1/1980 (the Census date) and 1/1/1982 (the legalization eligibility date under IRCA) require additional assumptions. Here, we simply took the Census researchers' high and low estimates of that growth which were based on work with various Current Population Surveys (CPS) since 1979 (see Passel and Woodrow, forthcoming).

Finally the "other adjustment" column also requires some explanation. We have considered three types of adjustments. First, we have shown a high and low range for emigration rates and deportations. Both estimates use INS deportation data which show consistently low levels of deportations. When border apprehensions are excluded, for example, expulsions from 1980 to 1986 average between 50,000 and 60,000 persons per year. About 40 percent of those expelled were expelled to Mexico; an additional 40 percent of expulsions were to El Salvador, Colombia, Guatemala, Haiti, Dominican Republic, Honduras, Jamaica, United Kingdom, and Ecuador, in that order. (INS, Statistical Yearbook, 1986).

The key variable in this column, then, becomes emigration. The U.S. stopped collecting emigration statistics in the late 1950s. Data from that period indicate that historically, about one-third of all legal immigrants to the U.S. return to their home countries. Emigration rates vary by country of birth, with many Southern and Western European immigrants having rates considerably higher than the norm.

More recent estimates for emigration of legal immigrants generally support the historical pattern. Jasso and Rosenzweig (1982) used an intercensal cohort component method and estimated that emigration rates in the 1970s varied from an upper limit of between 15 and 70 percent to a lower limit of between 2 and 15 percent. The near doubling of U.S. social security system beneficiaries abroad between 1963 and 1973 (Kraly, 1982) suggests that a significant component of emigrants are retirees. Work by Warren and collaborators (Warren, 1979; Warren and Peck, 1980; and Warren and Passel, 1987), using a variety of methodologies, indicates that reasonable estimates of long-term emigration rates by legal immigrants are about 30 percent. For instance, emigration of legal immigrants between 1962 and 1975 was found to be about 31 percent of legal immigration during that same period; the rate for the 1965-1979 period was about 30 percent; and 17 percent of legal immigrants arriving in the 1960s had emigrated by 1970. However, aggregate figures routinely hide wide variations among nationalities. Virtually all studies indicate that Europeans have moderate rates and Asians very low rates of emigration. Immigrants from the rest of the Americas, however, have had generally high emigration rates. Finally, legal immigrant women seem to emigrate at higher rates than men and recent legal immigrants are more likely to emigrate than those who have been in the U.S. longer. On the basis of a review of these studies, the GAO recently concluded that between 15 and 30 percent of legal immigrants emigrate (GAO, 1988).

The challenge for this assessment is to extrapolate from these limited findings about legal immigrants the emigration behavior of undocumented aliens. We have chosen 20 percent as our emigration high range to reflect the fact that undocumented aliens are very similar to legal immigrants in most human capital characteristics and socioeconomic measures (Papademetriou and DiMarzio, 1986; Muller and Espenshade, 1985, Weintraub and Cardenas, 1984). We chose a lower figure than the GAO's upper range of 30 percent because of the mere seven-year-gap since the undocumented population estimates of the 1980 Census. That we still opted for the relatively high figure of 20 percent reflects that recent immigrants have consistently higher emigration rates than more established ones. The low estimate of 10 percent emphasizes the possibility that widespread knowledge that the

U.S. Congress might authorize a legalization program was likely to have enticed some undocumented aliens, who might otherwise have left, to remain in the U.S. a while longer.

The Table's assumptions about "adjustments of status" also require elaboration. Our high estimate of 10 percent reflects adjustments due to marriages, successful asylum applications, family unification with relatives who are already in the U.S. in an undocumented status while waiting for their immigrant visas, and labor certifications. Obviously, there are wide variations in the ability of different nationalities to avail themselves of such adjustments and these variations influence the probable size and composition of alien groups eligible for the IRCA legalization program in different states. The low estimate of 5 percent reflects knowledge that Mexicans are least successful in obtaining adjustments due to low naturalization rates and other factors. For instance, Mexicans face extremely long waiting lines for numerically limited visas in the family reunification preference categories. In fact, only 12,000 Mexicans and 9,000 Salvadorans entering before 1/1/1982 were able to adjust their status by the end of 1986 -- compared to 247,000 from the rest of the world (INS, Statistical Analysis Branch, 1988). In view of the preponderance of Mexicans among undocumented aliens, a larger allowance for their characteristics seems appropriate when making estimates about adjustments of status.

Finally, the high (2 percent) and low (1 percent) estimates for "losses" in the undocumented population due to mortality reflects a defensible range when considering that population's race composition and the young average age of the group. About half of these aliens came after 1975 and most studies on undocumented aliens report average ages of between 30 and 35 years old.

A final comment about Table 1 concerns a little considered provision of IRCA which updates the registry from 1948 to 1972. As a result, those undocumented aliens in the U.S. since before 1972 could qualify for immediate permanent residence subject to all requirements of the Immigration and Nationality Act. For reasons which range from the more tolerant rules of the regular legalization program to personnel resource allocations within local INS districts, few undocumented aliens have been availing themselves of the registry program. That program has had less than 8,000 persons receiving final adjudications as of the end of FY 1987. An additional 20,000 to 30,000 persons are estimated to be in the application pipeline. Similarly, the Cuban/Haitian program, another of IRCA's four distinct legalization programs, had only 4,185 final adjudications by the end of FY 1987. An additional 15,000 to 20,000 are estimated to be in various stages of the application process.

Table 2 offers an overview of INS data on legalization applications as of January 8, 1988. One technical point about these and subsequent INS-generated data must be kept in mind. The Immigration Service uses two sources of statistical information on legalization applications: the Legalization Office

TABLE 2:

Estimated Legalization Applications (I-687 and I-700)
By Countries of Citizenship
LOSS Data as of 1/8/88 - LAPS Data as of 1/7/88
Rounded to the Nearest Hundred

COUNTRY OF CITIZENSHIP	TOTAL APPLICATIONS	PERCENT	TOTAL I-687	PERCENT	TOTAL I-700	PERCENT
Total	1,166,784	100.0	922,456	100.0	244,328	100.0
Mexico	840,100	72.3	659,700	71.5	180,400	75.5
El Salvador	77,000	6.6	74,100	8.0	2,900	1.2
Haiti	38,700	3.3	10,000	1.1	28,700	12.0
Guatemala	26,200	2.3	24,500	2.7	1,700	0.7
Philippines	13,500	1.2	13,000	1.4	600	0.2
Colombia	10,500	0.9	9,700	1.1	700	0.3
Nicaragua	9,800	0.8	9,600	1.0	100	0.1
Poland	9,600	0.8	9,600	1.0	100	0.0
Jamaica	9,200	0.8	6,100	0.7	3,000	1.3
India	9,100	0.8	2,900	0.3	6,200	2.6
Iran	7,400	0.6	7,400	0.8	0	0.0
Pakistan	6,900	0.6	3,000	0.3	3,900	1.6
Canada	6,000	0.5	5,800	0.6	200	0.1
China, Mainland	5,900	0.5	5,600	0.6	300	0.1
Peru	5,600	0.5	5,200	0.6	300	0.1
Honduras	5,200	0.4	4,700	0.5	500	0.2
Ecuador	5,000	0.4	4,800	0.5	100	0.1
Dominican Republic	4,400	0.4	3,800	0.4	600	0.3
Nigeria	4,400	0.4	4,000	0.4	300	0.1
Korea	4,300	0.4	3,200	0.4	1,100	0.4
United Kingdom	4,300	0.4	4,100	0.4	200	0.1
Thailand	3,200	0.3	3,200	0.3	0	0.0
Argentina	2,800	0.2	2,800	0.3	100	0.0
Bangladesh	2,500	0.2	700	0.1	1,800	0.8
Belize	2,500	0.2	2,500	0.3	0	0.0
Chile	2,500	0.2	2,500	0.3	100	0.0
Ghana	2,400	0.2	1,800	0.2	500	0.2
Taiwan	2,400	0.2	2,300	0.3	100	0.0
Guyana	2,100	0.2	1,700	0.2	300	0.1

Source : INS Statistical Analysis Branch

Support System (LOSS), which reports on applications from each INS Legalization Office; and the Legalization Application Processing System (LAPS) which reports on much, but not all, of the information from individual legalization applications (Form I-687 for regular legalization applicants; form I-700 for SAW legalization applicants). The LOSS data base is current to the date indicated but allows few insights about the characteristics of the applicant pool. The LAPS data base is rich in demographic detail but is smaller and less current because of the time involved in processing the applications and sending them to be keyed and loaded into LAPS. The INS arrives at some of its bi-weekly data reports by estimating the total number of applicants by state of residence and country of citizenship using LAPS characteristics and LOSS numbers (INS, Provisional Legalization Application Statistics).

Table 2 shows that as of January 8, 1988, 1,166,784 persons had applied for adjustment of status under the two major legalization programs. Of these, Mexican nationals account for 72.3 percent of total applicants and 71.5 percent of regular legalization program applicants (I-687). Only four other countries contribute more than 1 percent of the total applicants. In descending order, they are El Salvador (6.6 percent), Haiti (3.3 percent), Guatemala (2.3 percent), and the Philippines (1.2 percent). The data for SAW applications generally follow a similar pattern, except for a few noteworthy anomalies which both

INS and QDE staffs agree are largely due to significant program fraud. These anomalies involve substantial unexpected participation in the SAW legalization program by several Asian groups (such as Indians, Pakistanis, Bangladeshis, and Koreans) and a much larger than anticipated attempted participation by Haitians.

Mexico's share of total applicants is higher than could be predicted on the basis of total response to the legalization program. The figures for Mexico are high even when the highest Census undercount estimates for California, where the majority of undocumented Mexican nationals reside, are used. (See Table 1). On the basis of the 1980 Census estimates, most observers had expected Mexicans to account for between fifty and sixty percent of the total undocumented pool. In view of some of the observations about differential adjustment assumptions by nationality made in Table 1, shares slightly higher than 60 percent are certainly not extraordinary. The actual number for Mexican applicants and their share of total applicants reported by INS legalization statistics, however, do require a brief explanation.

One possible explanation might be that the legalization program has been much more successful in the Southwest, especially in California and Texas, than anywhere else in the country. As a result, the large Mexican share is due to the concentration of Mexicans in the Southwest. Data on California, Texas, and Illinois, where Mexicans are the dominant alien group, indicate that as a group, and in comparison to most other nationalities, Mexicans have responded to the legalization program rather well (see Tables 1, 3, and 4).

However, one should be careful not to overstate the point. Even when using only the unadjusted 1980 Census figures for undocumented Mexicans (1.131 million), Mexican applicants for the regular legalization program are not likely to reach more than about 70 percent of that figure. When adjusting the Census figure upward for an apparently very high underestimate for Mexicans in California and for those entering between 4/1/1980 and 1/1/1982, the Mexican participation becomes significantly smaller. The only way that program participation by Mexican undocumented aliens becomes significant again, is by merging regular legalization and SAW legalization applicants and by assuming emigration rates for that population which would be extraordinarily high by most measures. We are reluctant to do so for reasons already discussed earlier in this chapter.

Notwithstanding these caveats, Mexicans appear to be more responsive to the legalization program than any other nationality except Salvadorans. Salvadoran participation is easily explained by the incentive of conditions in El Salvador. For Mexicans, however, one has to search further. A second possible explanation relates to the first one and suggests the following: if there are no substantial regional differences in (a) the level of effort, commitment of funds, and sensitivity of approach in the

TABLE 3:

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE: TOTAL

		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	981,018	779,058	611,153	158,265	9,640	201,960	30,224	169,485	2,251
Mexico	706,182	555,257	502,900	45,598	6,759	150,925	27,083	123,118	724
El Salvador	64,239	61,889	56,711	4,522	656	2,350	357	1,977	16
Haiti	35,891	8,980	3,255	5,474	251	26,911	1,481	24,078	1,352
Guatemala	21,668	20,160	16,179	3,761	220	1,508	161	1,344	3
Philippines	11,174	10,800	971	9,733	96	374	51	323	-
Colombia	9,174	8,517	4,866	3,495	156	657	50	597	10
Nicaragua	8,616	8,504	2,908	5,483	113	112	11	100	1
Jamaica	8,319	5,503	1,446	3,945	112	2,816	183	2,596	37
Poland	7,635	7,594	238	7,278	78	41	6	35	-
India	6,879	2,447	621	1,797	29	4,432	251	4,159	22
Iran	6,366	6,337	360	5,910	67	29	4	25	-
Pakistan	5,573	2,597	387	2,171	39	2,976	128	2,825	23
Canada	5,376	5,223	2,322	2,802	99	153	17	134	2
China, Mainland	5,118	4,948	1,435	3,472	41	170	12	158	-
Peru	4,804	4,498	1,681	2,738	79	306	15	287	4
Honduras	4,444	4,019	2,698	1,263	58	425	43	380	2
Ecuador	4,209	4,094	2,042	1,989	63	115	6	109	-
Nigeria	3,873	3,578	272	3,262	44	295	12	282	1
Dominican Republic	3,783	3,250	2,134	1,064	52	533	56	468	9
Korea	3,546	2,737	217	2,492	28	809	22	787	-
All Other	54,149	48,126	7,510	40,016	600	6,023	275	5,703	45

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE: CALIFORNIA

Country of Citizenship	Total	I-687 TOTAL	I-687 Entered Illegally Prior to 1/1/82	I-687 Overstayed Nonimmigrant Visa Prior to 1/1/82	I-687 Unknown	I-700 Total	I-700 Group I SAWs in last 3 years	I-700 Group II SAWs in 1986	I-700 Unknown
Total	513,486	429,453	371,031	53,800	4,622	84,033	17,181	66,440	412
Mexico	417,989	338,044	310,087	24,147	3,810	79,945	16,706	62,845	394
El Salvador	43,092	42,113	39,263	2,492	358	979	156	814	9
Guatemala	14,906	14,425	12,452	1,837	136	481	84	395	2
Philippines	6,339	6,094	572	5,483	39	245	32	213	-
Nicaragua	3,324	3,297	1,620	1,644	33	27	-	27	-
Iran	2,893	2,887	205	2,655	27	6	1	5	-
India	2,368	559	221	333	5	1,809	147	1,656	6
Honduras	1,771	1,710	1,423	267	20	61	9	52	-
Peru	1,626	1,600	731	846	23	26	5	21	-
Korea	1,203	1,178	87	1,079	12	25	1	24	-
Colombia	1,142	1,129	772	335	22	13	2	11	-
Canada	1,083	1,069	600	452	17	14	3	11	-
China, Mainland	881	861	60	789	12	20	1	19	-
Ecuador	867	864	596	263	5	3	2	1	-
Pakistan	546	379	45	332	2	167	10	157	-
Nigeria	257	256	29	224	3	1	-	1	-
Poland	119	118	13	104	1	1	-	1	-
Jamaica	105	105	39	66	-	-	-	-	-
Haiti	45	45	13	31	1	-	-	-	-
Dominican Republic	18	18	10	8	-	-	-	-	-
All Other	12,912	12,702	2,193	10,413	96	210	22	187	1

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE: TEXAS

		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	146,468	134,795	113,408	19,122	2,265	11,673	2,627	8,988	58
Mexico	127,771	116,717	101,835	12,909	1,973	11,054	2,527	8,472	55
El Salvador	9,233	8,959	8,399	388	172	274	77	194	3
Guatemala	1,105	1,065	877	177	11	40	6	34	-
Nigeria	769	768	67	695	6	1	1	-	-
Iran	753	751	45	696	10	2	-	2	-
Colombia	614	606	450	145	11	8	-	8	-
Pakistan	571	516	53	455	8	55	-	55	-
Honduras	535	508	441	62	5	27	8	19	-
Canada	501	453	237	207	9	48	1	47	-
Nicaragua	422	418	217	190	11	4	-	4	-
Philippines	371	356	39	315	2	15	-	15	-
India	304	217	54	161	2	87	2	85	-
Peru	189	188	114	74	-	1	-	1	-
Korea	189	173	9	163	1	16	-	16	-
China, Mainland	164	164	18	143	3	-	-	-	-
Jamaica	109	108	16	87	5	1	-	1	-
Ecuador	105	105	59	45	1	-	-	-	-
Poland	23	23	2	21	-	-	-	-	-
Dominican Republic	19	19	11	8	-	-	-	-	-
Haiti	18	17	4	12	1	1	-	1	-
All Other	2,703	2,664	461	2,169	34	39	5	34	-

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence

LAPS Data Generated January 7, 1988

STATE: NEW YORK		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	49,781	43,186	15,606	26,885	695	6,595	325	6,231	39
Haiti	4,637	4,529	1,298	3,098	133	108	13	95	-
El Salvador	3,099	3,072	2,588	447	37	27	4	23	-
Mexico	3,053	2,889	2,394	420	75	164	36	127	1
China, Mainland	2,731	2,662	1,087	1,561	14	69	2	67	-
Colombia	2,613	2,549	1,451	1,051	47	64	8	55	1
Pakistan	2,557	551	193	352	6	2,006	96	1,894	16
India	2,432	484	185	289	10	1,948	79	1,854	15
Jamaica	2,337	2,239	552	1,653	34	98	23	75	-
Ecuador	1,894	1,873	844	1,000	29	21	2	19	-
Poland	1,732	1,716	34	1,668	14	16	2	14	-
Dominican Republic	1,668	1,667	1,003	630	34	1	-	1	-
Korea	1,238	824	76	738	10	414	7	407	-
Philippines	1,099	1,071	61	995	15	28	3	25	-
Guatemala	1,050	1,001	577	405	19	49	1	48	-
Peru	930	917	305	589	23	13	-	13	-
Nigeria	772	769	64	695	10	3	-	3	-
Honduras	626	624	300	313	11	2	-	2	-
Nicaragua	358	358	118	234	6	-	-	-	-
Canada	344	340	142	198	-	4	-	4	-
Iran	319	314	15	295	4	5	-	5	-
All Other	14,292	12,737	2,319	10,254	164	1,555	49	1,500	6

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence LAPS Data Generated January 7, 1988

STATE: ILLINOIS		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	50,634	49,203	37,438	11,374	391	1,431	475	953	3
Mexico	39,830	38,440	35,106	3,053	281	1,390	470	917	3
Poland	4,193	4,189	108	4,039	42	4	-	4	-
Guatemala	1,123	1,122	698	414	10	1	-	1	-
Philippines	911	909	50	855	4	2	1	1	-
Pakistan	618	610	34	566	10	8	1	7	-
El Salvador	515	511	423	82	6	4	2	2	-
Ecuador	369	369	268	98	3	-	-	-	-
Colombia	304	303	212	88	3	1	-	1	-
India	248	234	22	210	2	14	-	14	-
Nigeria	182	180	26	152	2	2	-	2	-
Honduras	114	113	63	50	-	1	-	1	-
Iran	109	109	5	100	4	-	-	-	-
Peru	104	104	45	59	-	-	-	-	-
Canada	93	93	45	45	3	-	-	-	-
Korea	82	81	3	78	-	1	1	-	-
Haiti	81	80	15	65	-	1	-	1	-
Jamaica	61	61	14	47	-	-	-	-	-
China, Mainland	52	52	5	47	-	-	-	-	-
Nicaragua	37	37	10	27	-	-	-	-	-
Dominican Republic	6	6	2	4	-	-	-	-	-
All Other	1,602	1,600	284	1,295	21	2	-	2	-

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE: FLORIDA

Country of Citizenship	Total	I-687 TOTAL	I-687 Entered Illegally Prior to 1/1/82	I-687 Overstayed Nonimmigrant Visa Prior to 1/1/82	I-687 Unknown	I-700 Total	I-700 Group I SAWs in last 3 years	I-700 Group II SAWs in 1986	I-700 Unknown
Total	74,482	25,963	10,191	15,204	568	48,519	3,276	43,677	1,566
Haiti	28,526	2,251	1,246	924	81	26,275	1,383	23,546	1,346
Mexico	16,819	4,384	3,944	373	67	12,435	1,426	10,899	110
Jamaica	4,672	2,102	645	1,396	61	2,570	129	2,404	37
Nicaragua	3,554	3,477	687	2,743	47	77	11	65	1
Colombia	2,479	1,955	851	1,071	33	524	35	480	9
Canada	2,051	2,002	728	1,219	55	49	1	47	1
El Salvador	1,460	833	443	376	14	627	67	556	4
Guatemala	1,142	651	336	295	20	491	35	455	1
Honduras	889	635	250	367	18	254	23	230	1
Peru	843	622	110	498	14	221	8	209	4
Pakistan	487	121	8	113	-	366	9	350	7
Dominican Republic	451	190	63	125	2	261	8	246	7
Iran	426	420	7	409	4	6	1	5	-
Ecuador	364	285	66	209	10	79	2	77	-
Nigeria	362	114	5	109	-	248	5	242	1
India	310	124	11	111	2	186	7	178	1
Korea	261	8	1	7	-	253	4	249	-
Philippines	178	153	8	143	2	25	1	24	-
China, Mainland	173	137	26	108	3	36	1	35	-
Poland	86	80	4	75	1	6	2	4	-
All Other	8,949	5,419	752	4,533	134	3,530	118	3,376	36

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE: NEW JERSEY

		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	10,596	9,681	3,535	5,918	228	915	119	793	3
Colombia	992	984	590	363	31	8	-	8	-
Philippines	914	880	108	746	26	34	5	29	-
Mexico	858	601	523	64	14	257	61	195	1
Poland	790	789	60	713	16	1	-	1	-
El Salvador	776	775	646	121	8	1	-	1	-
Haiti	749	719	258	440	21	30	2	26	2
Peru	523	523	200	310	13	-	-	-	-
Ecuador	410	406	161	232	13	4	-	4	-
Guatemala	276	266	174	88	4	10	2	8	-
India	256	104	22	81	1	152	11	141	-
Jamaica	233	228	49	175	4	5	2	3	-
China, Mainland	200	194	66	125	3	6	-	6	-
Korea	197	123	9	112	2	74	9	65	-
Nigeria	170	169	15	147	7	1	-	1	-
Iran	146	142	4	134	4	4	-	4	-
Pakistan	144	68	4	58	6	76	7	69	-
Nicaragua	141	141	67	73	1	-	-	-	-
Dominican Republic	141	140	77	63	-	1	-	1	-
Honduras	111	109	41	66	2	2	-	2	-
Canada	68	65	32	32	1	3	-	3	-
All Other	2,501	2,255	429	1,775	51	246	20	226	-

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence
LAPS Data Generated January 7, 1988

STATE : MASSACHUSETTS

		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	4,233	4,077	1,434	2,607	36	156	3	152	1
Haiti	949	932	299	626	7	17	1	16	-
El Salvador	505	504	421	78	5	1	1	-	-
Guatemala	346	346	200	141	5	-	-	-	-
Colombia	181	174	110	64	-	7	-	7	-
China, Mainland	180	180	25	154	1	-	-	-	-
Poland	133	131	2	128	1	2	-	2	-
Jamaica	100	95	23	71	1	5	-	5	-
Dominican Republic	99	99	60	38	1	-	-	-	-
Iran	91	91	2	87	2	-	-	-	-
Mexico	76	64	52	12	-	12	1	11	-
Canada	64	63	26	37	-	1	-	-	1
India	57	32	7	24	1	25	-	25	-
Peru	56	56	24	32	-	-	-	-	-
Nigeria	53	53	5	47	1	-	-	-	-
Honduras	52	51	23	28	-	1	-	1	-
Ecuador	48	48	8	39	1	-	-	-	-
Philippines	30	30	1	28	1	-	-	-	-
Pakistan	28	13	2	11	-	15	-	15	-
Nicaragua	24	24	10	14	-	-	-	-	-
Korea	6	6	-	6	-	-	-	-	-
All Other	1,155	1,085	134	942	9	70	-	70	-

TABLE 3 (continued):

Legalization Applicants (I-687 and I-700) By Selected Countries of Citizenship, Type of Application, and Selected State of Intended Residence

LAPS Data Generated January 7, 1988

STATE: ALL OTHER		I-687				I-700			
Country of Citizenship	Total	TOTAL	Entered Illegally Prior to 1/1/82	Overstayed Nonimmigrant Visa Prior to 1/1/82	Unknown	Total	Group I SAWs in last 3 years	Group II SAWs in 1986	Unknown
Total	131,338	82,700	58,510	23,355	835	48,638	6,218	42,251	169
Mexico	99,786	54,118	48,959	4,620	539	45,668	5,856	39,652	160
El Salvador	5,559	5,122	4,528	538	56	437	50	387	-
Guatemala	1,720	1,284	865	404	15	436	33	403	-
Iran	1,629	1,623	77	1,534	12	6	2	4	-
Dominican Republic	1,381	1,111	908	188	15	270	48	220	2
Philippines	1,332	1,307	132	1,168	7	25	9	16	-
Nigeria	1,308	1,269	61	1,193	15	39	6	33	-
Canada	1,172	1,138	512	612	14	34	12	22	-
India	904	693	99	588	6	211	5	206	-
Haiti	886	407	122	278	7	479	82	393	4
Colombia	849	817	430	378	9	32	5	27	-
Nicaragua	756	752	179	558	15	4	-	4	-
China, Mainland	737	698	148	545	5	39	8	31	-
Jamaica	702	565	108	450	7	137	29	108	-
Pakistan	622	339	48	284	7	283	5	278	-
Poland	559	548	15	530	3	11	2	9	-
Peru	533	488	152	330	6	45	2	43	-
Korea	370	344	32	309	3	26	-	26	-
Honduras	346	269	157	110	2	77	3	73	1
Ecuador	152	144	40	103	1	8	-	8	-
All Other	10,035	9,664	938	8,635	91	371	61	308	2

Source: INS Statistical Analysis Branch

TABLE 4:

Estimates of Undocumented Aliens Counted in the 1980 Census by State of Residence and Country or Region of Birth. Legalization Applicants (I-687), by State of Residence and Country or Region of Birth (Data in Parentheses). (Population in Thousands. Figures Rounded Independently).

	California	Florida	Illinois	Massachusetts	New Jersey	New York	Texas
All Countries	1,024 (429.5)	80 (26.0)	135 (49.2)	17 (4.0)	37 (9.7)	234 (43.2)	186 (134.8)
North and Central America	856 (402.8)	44 (18.1)	110 (40.7)	9 (2.4)	13 (3.3)	137 (20.3)	156 (128.6)
Mexico	763 (338.0)	7 (4.4)	101 (38.4)	- (0.1)	2 (0.6)	6 (2.9)	147 (116.7)
Cuban and Dominican Republic	1 (0.0)[1]	15 (0.3)	1 (0.0)	3 (0.1)	3 (0.2)	15 (1.7)	1 (0.0)
Canada	9 (1.1)	5 (2.0)	1 (0.1)	-1 (0.1)	- (0.1)	2 (0.3)	1 (0.5)
Haiti/Jamaica/Trinidad and Tobago	3 (0.2)	6 (4.4)	2 (0.1)	3 (1.1)	4 (1.0)	70 (7.5)	1 (0.2)
Central America and Other Caribbean	79 (63.4)	12 (7.0)	5 (2.0)	2 (1.1)	3 (1.5)	43 (7.8)	6 (11.2)
South America	23 (5.7)	16 (5.1)	3 (0.9)	3 (0.5)	9 (2.5)	37 (7.8)	4 (1.4)
Europe	41 (2.3)	10 (1.0)	9 (4.6)	1 (0.3)	8 (1.2)	26 (3.4)	7 (0.5)
Asia	84 (16.9)	8 (1.4)	10 (2.7)	3 (0.6)	4 (2.0)	22 (8.9)	15 (2.9)
Africa and Oceania	20 (1.9)	3 (0.3)	3 (0.3)	2 (0.3)	2 (1.0)	12 (2.8)	5 (1.4)

Source: For the Census data, see Passel and Woodrow, 1984: Tables 1 and 3; for the legalization data, see LAPS data, January 7, 1988, INS Statistical Analysis Branch.

1. Some cells appear empty due to rounding.

public education/outreach campaign; (b) program implementation by the INS; and (c) degree of commitment and level of participation by QDEs, then the Census undercount for California may in fact be even larger than the highest responsible range cited earlier and/or the growth in the undocumented population there between 4/1/1980 and 1/1/1982 was much larger than estimated. In that scenario, the legalization program may still be doing better in the Southwest, but a much larger share of the discrepancy would be explained by the overall undercount in the size of the Mexican component among undocumented aliens.

While this is certainly possible, we believe that the three premises on which this explanation rests are only partially valid. First, as we discuss elsewhere in this report, we are convinced that the publicity effort, both that sponsored by the government and that launched by the private sector, has indeed been more aggressive and visible in the Southwest, especially with regard to the Spanish-speaking. Second, although, on the surface, the INS effort is the same everywhere, the personality and energy of top regional and district managers makes a significant difference in the success of the legalization effort. Third, the QDE effort is also not equally organized and successful across the nation. By everyone's account, the Los Angeles Catholic Archdiocese, for instance, engaged in a very successful public education service well in advance of the INS' effort and has continued to do so. Other QDEs have also participated extensively in this process, as have foundations and other private and public sector groups. The International Ladies' Garment Workers' Union, for instance, has put significant resources in the legalization effort in Los Angeles, which has a large garment industry. Similarly, the California philanthropic community's response to legalization probably accounts for more than half of that community's total national direct response to the program. Further, because Mexicans dominate the undocumented universe in the region, fewer cultural and communications barriers had to be overcome than virtually anywhere else except possibly Chicago. Finally, the attention that INS has traditionally directed at the Mexican border may have become somewhat of an asset for the legalization program. Born of adverse circumstances, the agency and the Hispanic undocumented may nevertheless be tied together by what one observer calls a "competitive bond." They know one another. Now that the rules have changed, these two parties have been able to find common ground.

A third explanation relates to both previous ones and refers to characteristics and subsequent behavior vis-a-vis legalization which may be idiosyncratic to the Mexican undocumented population. That explanation proceeds from the knowledge that a significant plurality of Mexican undocumented aliens continues to have deep family roots and economic links in Mexico and are fundamentally sojourners (Massey et al., forthcoming). Their work and residence in the U.S. is essential to their households' survival strategy. For them, legalization provides an important opportunity to travel across the border unimpeded. Program-associated risk factors, such as family separation or deportation, are likely to be less relevant to those with fewer ties to the United States. While research evidence points out that Mexican undocumented aliens settle in the U.S. in large numbers (see Weintraub and Cardenas, 1984; Muller and Espenshade, 1985), even a minority component of highly responsive sojourners would push upward overall Mexican participation rates.

Reading the legalization data (Tables 2,3, and 4) together with the State estimates from Table 1, raises even more serious questions about apparent discrepancies in legalization participation rates by nationalities other than Mexican undocumented aliens. Some observers are apt to attribute some of these discrepancies to the law's distant eligibility date. Thus, since "most" undocumented Polish, Salvadorans, Irish or other groups came after the eligibility date, they fail to qualify.

In some cases, this argument may have some merit. For instance, Central Americans have probably continued to come to the U.S. in large numbers. In other cases, such as those involving Asian and European groups, incomplete and as yet unpublished INS data indicate that "visa overstaying" -- the dominant route of undocumented immigration in most places outside of the Southwest -- is considerably less pervasive than usually assumed. While these data might suggest that both the pre- and post-January 1, 1982 undocumented population among Europeans and Asians may be smaller than some may have thought, they explain little of the low participation rates by these groups. As a result, one must look for alternative explanations. Nowhere are these questions more relevant than in the northeastern United States.

We estimate that as many as 208,600 undocumented aliens may be eligible for legalization in New York (see Table 1). Of them, more than half are likely to come from North and Central America (see Table 4). The region, as classified by Census researchers, includes the Caribbean and Canada. Canada and Mexico contribute only a small number to that total. According to INS data, and exclusive of Mexicans and Canadians, of the nearly 780,000 legalization applicants[1] keyed into the LAPS database as of January 8, 1988, under 40 percent of New York's 43,186 regular legalization applicants are from North and Central America (see Tables 3 and 4 for the New York legalization data). The anomaly becomes more remarkable when Table 4 is viewed alone. For New York, the figures for applicants from North and Central America are less than one-sixth those estimated by the Census Bureau for 1980. Similar discrepancies are evident for all other partially aggregated groups--except Asians.

The situation is not limited to New York. Massachusetts' legalization total stands at about 23 percent of 1980 Census projections; that for New Jersey at about 25 percent; for Florida, about 33 percent; and for Illinois, 37 percent (data drawn from Tables 3 and 4). The inconsistency between Census estimates and actual applications remains in similar overall proportion to the aggregate figures when national groupings are observed (Table 4). Such inconsistencies make it compelling for us to ask several questions. What has happened to the qualifying Asian undocumented aliens in most places in the U.S. (about one-fifth of the projected 1980 Census total)? Where have the South Americans and Europeans gone in the Northeast? Where is the Latino community in South Florida -- especially when one looks beyond the SAW legalization program? And where are more than three-quarters of the undocumented aliens counted in the 1980 Census in New Jersey and Massachusetts?

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[1] Note that the data displayed in Tables 3 and 4 are LAPS data and report on only 779,058 cases out of a total of 922,456 regular legalization applications received by January 7, 1988.

We do not have fully plausible explanations for many of these anomalies -- unless one engages in cultural stereotypes. We heard numerous such stereotypes offered as explanations, most often by the ethnics themselves. Some suggested that Asians, for instance, might not be coming forward for legalization because they do not want to "lose face" among their friends by admitting that they had "deceived" everyone and had been in the U.S. illegally. Mexicans and other Latins spoke often of "procrastination" -- as did INS personnel, buttressed by the market research of the Agency's public information contractor.

That research claims that significant pluralities of respondents (*not all of whom were illegal aliens*) agreed with statements pointing to procrastination as a major reason for not coming forward for legalization.

As one might expect, even a casual look at the data does not always support such stereotypes. For instance, Chinese in New York have responded relatively well to the legalization program, due to the efforts of several immigrant assistance organizations. One then must allow that although cultural explanations may play a small role in determining which, and especially *when*, individuals come forward to legalize, we obviously need a more substantive explanation. Any explanation, in turn, should be able to be juxtaposed to, or integrated with, explanations about the relatively higher Mexican participation in the legalization program.

We do not believe that there is a single explanation, or even two or three explanations, which together explain the overwhelming proportion of the variance in program participation by nationality. What we would like to do instead is offer a menu of possibilities which, in different combinations, may shed some light on this dilemma.

We are not of the opinion that there are again as many potentially qualifying aliens remaining who are either totally unaware of the program, have made an inaccurate or uninformed judgment that they do not qualify (and are thus staying away), or are procrastinating. We are convinced, however, that the program -- if it continues on its present course -- will not come close to attracting all eligible applicants.

We are concerned with the superficiality and simplicity of many of the comments we have been hearing about a projected major surge in applications by eligible aliens in the program's last weeks. We probed field personnel on both sides of this issue carefully and we are convinced that unless radical program changes are both instituted and effectively communicated through a more focused, community-based information effort, the best thing one can hope for is the continuation of the program at approximately the rate of the Fall months (about 24,000 applications per week). At that rate, the regular legalization program would add about 400,000 applicants. That would bring the total to about 1.3 million applicants. With an expected final approval rate in the low to mid-ninety percentiles, about 1.2 million persons would become legal temporary U.S. residents through the regular legalization program. If one where to extrapolate from the figures of the last two months alone, however, the total number would be closer to 1.1 million (about 17,000 applications per week). Projecting the average weekly total since the end of August to the end of the program (22,000 per week) would only make an essentially marginal difference (see Chart 2, above).

Comparisons with Canada and France -- especially with the application deluge in their programs' waning moments -- miss some very important points. Canada's program lasted only 60 days, and France's only about 120. Shorter programs create a natural sense of urgency which has been difficult to duplicate in the United States. Furthermore, both Canada and France made dramatic adjustments toward the end of their legalization programs. Canada invited students to take advantage of the program. They eventually became the lion's share of the legalized. France offered employers a tax amnesty. Unless the INS contemplates similar moves, expectations of a surge are likely to fall short.

There is an additional crucial point about the experiences of other countries with legalization requiring reiteration: unless program changes receive extensive publicity, they will be for naught as far as participation in the program by newly eligible aliens is concerned.

There are numerous explanations which operate in concert to aid our understanding of the legalization program's difficulties in the Northeast. Ethnic communities in the Northeast are particularly diverse. Although legalization programs in virtually all of the sites we visited received applications from at least 80 nationalities, in the Northeast, the distribution of the nationalities among legalization applicants is much more evenly distributed. Table 3 makes the point sharply. Whereas in most states the top twenty applicant nationalities account for nearly all applications, New York, New Jersey, Massachusetts, and, to a lesser degree Florida, have about a quarter of their applicants in the "all other" category.

This observation leads to a web of explanations which may account for a large part of the anomaly. Many of the New York area's ethnic communities which had been expected to contribute the largest shares of legalization applicants (such as immigrants from Caribbean islands and the northern rim of South America) are relatively recent arrivals, usually since the late 1960s. These immigrants participate in a continuous process of utilizing legal and illegal immigration channels to reconstitute their families in the New York area. Although the immigration pathways they use and the ethnic networks they have developed are efficient and well-established, one sees fewer of the intergenerational characteristics of similar structures developed by Mexicans in the Southwest and Illinois.

There are a number of other differences which have particular relevance for the Northeast. For instance, undocumented immigrants who join stable and mature communities of their co-ethnics have more opportunities for obtaining immigration benefits through marriage. Similarly, the Asians' high naturalization rates allow for immigration benefits outside of numerical limitations. Adjustments of status for many of the nationalities found in the Northeast are also higher than those found elsewhere in the United States. When taking all factors into account, one begins to see that part of the explanation for the apparently low participation rates of these groups is that the eligible population may be even smaller than our midpoint estimates for each state in Table 1 suggest. Still, the discrepancy remains extraordinarily high.

An additional explanation suggests that for the undocumented groups which are dominant in the Northeast, entry to the U.S. is an expensive, difficult, and time-consuming process which requires a great deal of planning. As a result, those among the legalization program's risk factors associated with exposing not only oneself and one's immediate family to INS, but also other household members, become critical. General INS statements about confidentiality have probably been inadequate to create, among these groups, the sense of security necessary to come forward for the legalization program.

Neither has a concomitant sense of urgency about employer sanctions been conveyed or apparently believed. New York's economy has always allowed significant pockets of informal economic activities not only to exist but to grow and thrive. The City's vast service industry provides many economic opportunities while its again robust economy has allowed certain native minorities to climb higher on the occupational ladder (see Papademetriou and Muller, 1987). Mayor Koch's directive to city agencies not to cooperate with INS enforcement initiatives in virtually any area outside of criminal investigations (a policy stance also found in Chicago and Miami) has combined with a general INS laissez faire policy dictated by scarce investigations budgets to make New York relatively safe for undocumented immigrants. Restaurants, the garment industry, many small and medium-sized firms paying generally noncompetitive wages, the low-cost end of the construction sector (additions and rehabilitations), the hotel industry, the cleaning industry, and the vast network which makes up the City's informal economic sector -- messengers, peddlers, day workers -- thrive on the labor of undocumented immigrants.

It is the organization of some of these immigrants into ethnic communties, however, which might make this analysis more plausible. These communities, perhaps because of their relative newness, remain insular and discrete. They have not yet developed the organizational infrastructure and the necessary cadre of professional community leaders who would both develop effective vertical (intra-community), and the even more necessary horizontal (inter-community), communications channels. As a result, neither adequate nor accurate information about the legalization program might be reaching members of these communities.

Additional plausible explanations stem from these more general observations. As stated earlier, Asians naturalize at very high rates within the shortest possible time. In fact, the majority of Asians admitted by 1979 had become naturalized by 1986. By contrast, less that 25 percent of most Caribbean nationals had done so (INS, Statistical Yearbook, 1986: xxxiv). This might suggest that because of the five-year gap which the

147

eligibility date creates, many Asians and smaller but significant proportions of other groups may be well on the way to obtaining regular immigration benefits. Therefore, they might see no advantage to legalization with its uncertainties, risks, and costs -- especially when considering the program's language and civics requirements and restrictions of many social benefits during the temporary and permanent resident periods.

Finally, the place of immigrants in the labor market suggests the debilitating influence of a phenomenon observed in all legalization programs, and of which we were reminded in all of our interviews: employers of undocumented aliens are extremely reluctant (often on their attorneys' advice) to provide the necessary affidavits because of fear of exposure to tax and other workplace-related liabilities or simply because they do not want to become known to the INS as having a history of employing undocumented aliens. Tax liability concerns also cause many landlords to refuse to sign affidavits.

As we have pointed out, all of the explanations we have proposed are suggestive in nature. In each geographical setting a different set of explanations becomes more relevant. We do not believe that any one or two of them can explain most of the variance. We do feel, however, that taken together, and when placed against the larger regulatory and program administration issues highlighted in our exposition, the reasons for the data anomalies -- and their relative value for each locality -- become clearer.

Ultimately, our attempt to confront the data reminded us of an important lesson. Without a well-funded and effective immigrant data management system, the controversy surrounding "numbers" will continue well beyond the end of the legalization program. INS' inexplicable decision not to data-enter key variables from the legalization applications is only matched by INS management's apparent failure to tap its own data resources. We have been encouraged by the potential yield of the INS statistical information system in such areas as emigration, visa-overstaying, and adjustments of status. Such information became the indispensible Ariadne's thread as we tried to negotiate our way through the labyrinth of numbers. When all questions from the legalization applications are keypunched and become available, and the statutorily required survey research on a large statistically valid sample of the legalized is completed, the research community can hope to have more reliable information about the undocumented population. Hopefully, when researchers understand their subject better, policymakers and program managers will see their way clearer and make decisions on the basis of knowledge, rather than speculation.

Chapter III

THE EXTENSION QUESTION

Representative Charles Schumer (D-NY) and Senator Edward Kennedy (D-MA) have each recently introduced legislation that would extend the legalization application period for an additional year. A number of big city mayors have already or are expected to endorse an extension. Debate on the extension question is likely to take place in early March, weeks before it becomes clear whether program adjustments will have the desired effect. Thus, a judgment must be made on the basis of incomplete information. This calls for a weighing of some known as well as some highly speculative factors.

The case for extension is being actively promoted by the immigrant assistance community and rests on a series of issues that have been discussed in the foregoing material. The centerpiece of the argument is that the number of applicants has fallen sufficiently short of INS' 2 million target number of applicants and that the shortfall cannot be recovered, even with a late surge of applicants. (SAW numbers were not originally included in the INS projection; in INS' recent statements they seem to be included.)

There are a number of reasons for the shortfall, according to the extension argument. The most important is the inadequacy of the public information effort, and especially the failure of the government to involve community-based organizations and networks that have links and credibility with immigrant communities in targeted, neighborhood-based outreach. The kind of approach needed is only now beginning to be put into place. It is doubtful that there is enough time remaining for it to fully bear fruit. The public information effort is made more difficult by the number and piecemeal nature of policy changes. They have not been effectively communicated so that people who once may have determined they were ineligible do not know they might now qualify. The high incidence of self-determined eligibility is corroborated by the Service's own research on why people have not filed. In addition, the rate of final decisions has been unduly slow so that both those working in the system and applicants have not been certain about what constitutes successful cases until quite recently.

Another element of the extension argument is that although the QDE system has not succeeded to the extent anticipated, the task the QDE's faced was almost impossible. When the government decided against providing sufficient funding for them to mount viable operations and then actively undercut their ability to function by blaming them for the low early numbers and steering applicants away, the hope that an effective working partnership could be forged disappeared. It has taken a long time to overcome the damage of those early events. However, working relationships in the field have smoothed out and common understandings have been established. With additional time, the assistance network that is in place can provide the counseling and assistance for the difficult cases that are now appearing and that is needed for the maximum number of eligible persons to apply.

Finally, proponents point out, IRCA created four separate adjustment programs only one of which is limited to a one-year application period. In addition to the main legalization program, there is the SAW program under which applicants have 18 months, or until December 1, 1988, to apply and the Cuban/Haitian adjustment program under which applicants have two years from date of enactment, or until November 6, 1988, to file for legal status. There are no time limitations for the registry program. The inequity among these programs is arbitrary and should be corrected so that the pre-1982 candidates have the same chance to apply that IRCA grants other aliens seeking similar benefits. The legalization opportunity is an historic act that should be allowed to realize its fullest potential. The present program will not do so.

The leading opposition to extension comes from the INS which reaffirmed its 2 million estimate of expected applicants on January 13, 1988. This position is based on the belief that there will be a strong surge of applicants during the program's final quarter. This belief stems from market research which shows that a significant number of people would apply if the deadline were tomorrow and from the experiences of other amnesty programs -- including tax amnesties.

The case against an extension rests on plans for the final quarter to insure that every potentially eligible group has been offered adequate and accurate information and access to the immigrant-assistance network to make an informed judgment about eligibility. Extension opponents argue that evidence shows that the government has been capable of adapting and changing where required. The public information campaign that has just begun is ambitious and promising. In addition to media messages that give specific information needed to apply, the campaign has developed a community outreach concept.

Opponents underscore that the fact of an impending deadline is central to creating the momentum required to generate applications. Final decisions are coming from RPF's in a timely fashion and reflect extremely high approval rates. This bestows confidence in the legalization process. Other legalization programs have received large shares of total applications during the closing days. The highest volume of applications during this program to date was during the last two weeks of August, 1987 immediately prior to the September 1 date when enforcement of employer sanctions began.

In the end, according to the anti-extension argument, the legalization program is a "white knuckle" program. Experience suggests a flood of applications in the program's waning days. Frenzy at the end is healthy for it generates attention that impresses upon people that their one-time opportunity will end. The government has mounted an impressive, successful effort. The program should end as Congress originally decided it.

These are the respective arguments and assertions that must be weighed in making the extension decision. Rhetoric aside, extension is neither a "gift" to the immigrant-assistance community (which would have to continue to expend scarce resources for a constantly diminishing pool of applicants), nor a concession to the undocumented. Neither should it attach a stigma to the INS, for the record about its significant accomplishments is secure. If extension is granted, it should simply be viewed as an action which recognizes that certain key elements in a program of unprecedented scope and complexity need more time to work as intended. There are, however, a number of broad considerations that must be addressed in the extension debate.

Congress wanted as many people to come forward as are eligible but, in the end, the burden is upon the applicant. A certain number of eligible people might not apply for several reasons, some of which have been suggested in the discussion about numbers. Moreover, benefit programs generally experience lower participation rates than the number of those entitled to receive the benefit. With under 1 million applicants to date, the probable size of the late surge is important. Barring a major event which hinders the government's ability to process applications or applicants' ability to apply, the surge is likely to be in the range of 300,000 to 400,000 -- instead of the doubling the INS projection implies. Applications of about 1.4 million would indicate a shortfall of between 300,000 and 400,000 applications that should have been eligible under a 1982 date according to the most conservative estimates we are able to make. To what additional effort and at what cost should the nation go to reach those 300,000 to 400,000 additional people? This is the decision Congress must make.

Even if the program had had no problems and every possible action had been taken to reach applicants, the program might not achieve the numbers it theoretically could because of the nature of the enterprise. Legalization is the most complicated and difficult of the adjustment programs that have been implemented in this country. The documentation requirements, the size of the eligible population, and the conservative cutoff date make it more demanding than any program any other nation has had. These inherent difficulties are complicated further by the uncertainty surrounding the issue of ineligible family members and certain elements of the regulations (such as the 45 day limit on absences from the country and the interpretation of "known to the Government") that preclude substantial but unknown numbers of persons from eligibility or deter them from applying.

The Congressional debate surrounding legalization has rested without exception on the premise that the future enforcement of U.S. immigration law will be made more efficient and effective if there is not a large resident illegal alien population and if those who have contributed to the society are given the opportunity to regularize their status. With a 1982 cutoff date, perhaps twice as many aliens as those eligible for the one year legalization program will remain in an illegal status. Even if an additional 300,000 to 400,000 applicants could be reached with more time, Congress' stated objective will not be met through the program it enacted.

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APPENDIX I

THE SAW LEGALIZATION PROGRAM

by

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The Special Agricultural Worker or SAW program permits illegal alien workers who have done at least 90 days of qualifying agricultural work between May 1, 1985 and May 1, 1986 to apply for temporary legal status. The SAW program was a compromise negotiated without hearings or debate during the summer of 1986: farm employers could legalize their illegal alien farmworkers, and farmworkers had to satisfy less stringent legalization requirements than other legalizing aliens. The number of SAW legalizations establishes a ceiling for Replacement Agricultural Workers or RAWS who may be admitted to do farmwork between 1989 and 1993. The SAW program is unique because it was enacted without public discussion; because SAW-eligible illegal aliens could have entered the U.S. much later than other legalization applicants but were still presumed to have less documentation available to them; and because the number of SAWs is very important to farm employers who wish to import alien farmworkers in the future.

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The SAW legalization program began on June 1, 1987 and will continue until November 30, 1988. After six months, the INS received about 250,000 SAW applications, making SAWS about 20 percent of all applicants for legalization. Most SAW applicants are young Mexican men who applied for SAW status in California and other southwestern states. About 2/3 of all SAW applicants had their last qualifying farm jobs in fruits and vegetables.

The SAW program has generated concerns about low numbers of applicants, fraud, and labor shortages in 1989. These concerns are difficult to resolve; however, it appears that the lower-than-expected number of SAW applicants is primarily a function of the 90-day rule, that affidavits which substitute for payroll records are often fraudulent, and that predicted labor shortages have not generated preparations to use the H-2A temporary worker program.

1. The Number of SAW Applicants

Farmers were the only major group of U.S. employers who acknowledged their dependence on illegal alien workers, asserted that alien farmworkers were necessary, and threatened to oppose immigration reform unless they were assured that a replacement alien workforce would be available. During Congressional debate on farmer-proposed temporary worker programs, it was asserted that illegal aliens were 50 to 70 percent of the seasonal farm workforce and USDA estimated that 300,000 to 500,000 illegal aliens were employed in agriculture. Current Population Survey data did not support these assertions: e.g. the biennial CPS report on the characteristics of hired farmworkers estimates that 85 percent of all seasonal farmworkers are non-Hispanic.

This contrast between assertions and available data as well as the absence of hearings meant that there was no consensus on the expected number of SAW applicants. One number mentioned was 800,000;[1] in January 1988, there is discussion of 400,000. If the 400,000 estimate proves correct, then almost 2/3 of the SAW applicants applied during the first 1/3 of the program.

SAW applicants are young men who come primarily from Mexico and apply from California. The median age of SAW applicants is 28; 82 percent are males and 45 percent are married. About 3/4 of all SAW applicants are from Mexico, and 93 percent are from Mexico, Haiti, and the Indian subcontinent. About 45 percent of the SAW applications were filed in California and 22 percent in Florida; no other state had even 5 percent of the SAW applications. During the first six months of the SAW program, 8,000 to 9,000 applications have been filed each week.

Concentration is the key feature of the farm labor market: farmworkers are concentrated on large farms producing fruits and vegetables in a few states. However, SAW applicants are even more concentrated than all farmworkers.

After six months, farmers and farmworker representatives agree that the number of SAW applicants is lower than expected. There are two major reasons given for the lower-than-expected

162

number of SAW applicants: many illegal alien farmworkers do not qualify, and some persons who do qualify do not apply. It is very hard to determine how illegal alien farmworkers are divided between these two groups; anecdotal evidence suggests that a substantial share, perhaps half, of the illegal alien farmworkers employed in the western states in 1985-86 did not do 90 days of qualifying farmwork and are thus not eligible for the SAW program.

	SAW Applicants[1]	Seasonal Crop Workers[2]	Crop Wages[3]
California	45.0%	22.3%	26.2%
Florida	22.3	4.1	8.9
Texas	4.9	3.1	5.1
Washington	4.8	7.5	4.4
New York	3.7	1.8	1.9
Arizona	3.4	1.0	2.5
Oregon	3.2	3.7	2.2
North Carolina	1.9	7.6	4.0
Idaho	1.7	1.6	2.1
Colorado	1.2	0.8	1.1
	92.1	53.5	58.4

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[1] SAW applications filed through December 18, 1987.

[2] Workers employed on crop farms less than 150 days in the 1982 Census of Agriculture.

[3] Labor expenditures of crop farms in the 1982 Census of Agriculture.

SAW applicants must satisfy a critical requirement: they must do at least 90 days of qualifying farmwork. The 90-day rule represented a higher hurdle than originally proposed: the initial proposal was for 20 days of qualifying work, then 40, then 60, and finally 90 days. This 90-day rule excludes most farmworkers: in California, a 1984 analysis of unemployment insurance data indicated that half of all farmworkers did less than 8 weeks of farmwork and only 10 percent did 18 to 30 weeks of farmwork (18 5-day weeks is 90 days, and USDA defines workers employed more than 150 days as regular or year-round workers). However, the tougher days-of-qualifying-work requirement was offset partially by an expansive definition of qualifying work.

Farmer and farmworker advocates wanted an expansive definition of "seasonal agricultural services" to qualify the maximum number of SAW applicants. USDA obliged by including almost all crops: USDA concluded that seasonal fieldwork in fruits and vegetables of every kind and in other perishable commodities with "critical and unpredictable" labor demands such as Christmas trees, cut flowers, hops, and tobacco qualified workers for SAW legalization. Seasonal fieldwork was defined to include handworkers and machine operators and their supervisors. The USDA rule excludes workers in commercial packingsheds, but INS regulations include work done in packingsheds owned by a farmer which primarily pack products grown on the farmer's farm.

Despite this elastic definition, many illegal aliens who did farmwork do not qualify for the SAW program. However, this assessment focuses on why persons who do qualify do not obtain SAW status. There are four major explanations for why persons who qualify for SAW status do not apply: applicants fear that non-qualifying family members may be deported; applicants fear of the INS and fears that the IRS or Unemployment Insurance administrators may demand back taxes or the repayment of UI benefits; applicants cannot document their qualifying work history because their employers refuse to provide records or charge for them; and applicants cannot afford legalization fees. Finally, there may be some persons who would qualify for SAW status who are out of the U.S. but who do not plan to do enough U.S. farmwork to justify the costs of applying for SAW status.

a. Family Unification

There is widespread discussion about persons eligible for SAW status who do not apply because they have family members who do not qualify. Despite assurances of confidentiality, SAW-eligible persons allegedly do not apply for SAW status for fear of exposing non-qualifying family members to INS apprehension. An October 1987 letter from nine senators to INS Commissioner Nelson asserted that "numbers" and "reports from QDEs indicate that a large number of potential applicants are not coming forward [because they] ... cannot be certain that their families will not be separated."[2]

It is hard to determine the number of SAW-eligible persons who do not apply because of potential family-breakup problems.[3] However, most persons who are eligible for SAW status appear to recognize its value and do apply; they simply put off dealing with the family unification issue. Many discussions of the family unification issue mix qualified and non-qualified workers; some rough estimates are that for every 100 illegal alien farmworkers in 1985-86, 1/4 are not committed or professional farmworkers and thus did not do 90 days of qualifying farmwork; 1/4 are committed farmworkers who did not do at least 90 days of qualifying farmwork in 1985-86 because e.g. they stayed in Mexico or were employed in crops and areas that had shortened 1985 seasons; and 1/2 qualify and apply. Potential applicants who have solid proof of only 40 to 60 days of qualifying farmwork and have family or tax problems question whether it is worth getting additional documentation and applying; however, almost all workers with solid proof of 90 days of qualifying work apply.

b. Fears of INS, IRS, etc.

A second explanation for why SAW-eligible persons do not apply is that they fear approaching the agency they successfully eluded or they fear liability for back taxes or unemployment insurance (UI) benefits. Once again, it is hard to determine how many SAW-eligible persons do not apply because of such fears. However, from the evidence to date it appears that there will be very few tax or UI-deterring actions until after the SAW program is over, since there are lags in the enforcement activities of these agencies. For example, California farmers protested an effort to collect UI payments made to illegal alien workers, and UI administrators agreed in December 1987 to stop their "overpayment" collection efforts.[4]

c. Inadequate Documentation

Most farmers have gone out of their way to persuade illegal workers to apply for SAW status. However, reports persist of farmers and labor contractors who refuse to provide the employment documentation they have or charge workers for it. It is hard to generalize about why employers do not provide employment records: some employers allegedly refuse to provide work histories to workers who quit before the end of the season or to workers who were considered unsatisfactory, but it seems most likely that the employers who refuse to provide work histories are also the most likely to have violated labor or tax laws by e.g. not paying Social Security or UI taxes.

Despite federal and state laws which require farm employers to maintain employment records, these reports of employers with no records available or who fail to provide records or charge for them have been used to explain the large number of applicants in which the 90 days of qualifying work is supported at least in part with affidavits. However, these affidavits have also been an invitation to fraud, as some farm labor contractors (FLCs) and other employers apparently sell them both to persons who did and did not work for them.

In states with automated UI systems such as California, workers can provide EDD with the names and SSN's they used and EDD will provide a printout of that SSN's work history data. However, UI work history data cannot indicate days of qualifying work or specify the type of work done; UI data indicate only the name, address, and SIC code of the employer and the wages and weeks worked by the worker. It is not clear how INS utilizes these EDD work histories. In Florida, a law was recently enacted which requires FLC's and crew leaders to provide payroll records upon worker request if the worker pays a reasonable copying fee.

d. Legalization Costs

Most SAW-eligible workers have annual incomes of $2,000 to $4,000. Legalization costs $250 to $750 or more. Few persons are committed to careers as seasonal or migratory farm workers: many are small farmers abroad who hope that next year they will not have to enter the U.S. to do farmwork. IRCA was enacted in November 1986, after many seasonal farmworkers had left the U.S., and it is likely that some of those living outside the U.S. wonder whether it is worth paying $500 to obtain a U.S. work and residence permit when they have historically earned just $2,000 to $4,000 annually. Older SAW-eligible workers living outside the U.S. are most likely to wonder if the costs of applying for SAW status are justified, especially if they realize that the SAW temporary residence permit does not guarantee them jobs and that U.S. farmers prefer younger workers.

It is hard to determine the number of SAW-eligible workers who are outside the U.S. and who do not find it worthwhile to apply for SAW status. Many California farmers believe there is a large pool of such workers in Mexico. Fears of labor shortages

168

prompted INS to institute a special program from July through November 1987 which permitted SAW applicants to enter the U.S. through border stations for up to 90 days. These applicants may work in the U.S., secure their 1985-86 employment documentation, and apply for the SAW program in the U.S. However, from July through November 1987 only 4,000 Mexican workers used this border SAW entry port. The "Fazio amendment" of December 1987 reinstituted and expanded this border entry port program through November 30, 1988.

2. Fraud

The SAW program appears to have developed a reputation for fraud, with applicants of illegal aliens from Haiti, applicants from the Indian subcontinent, and applicants from Calexico, CA.,especially suspect. The number of applicants from Haiti in Florida is large: 30,000 of 50,000 in Florida when most local observers believed that the illegal alien farm workforce was comprised primarily of Mexicans and Latin Americans. Some of the Haitian applications were obviously fraudulent e.g. applicants asserting that they picked strawberries from stepladders or they picked baked beans. There is also a mismatch between these applicants' last jobs and their state of application; for example, almost half of the Haitians reported that their last job was in cash grains, yet cash grains such as wheat, corn and soybeans are not important crops on the Eastern Seaboard where most Haitians do farmwork (only 53 Haitians reported that their last job was in other field crops such as tobacco and sugarcane). According to one estimate, over half of the 50,000 SAW applications filed in Florida may be fraudulent;[5] however, the INS is recommending initial approval for over 80 percent of the SAW applications filed in Florida. The final approval rate for SAW applications which have been approved by the regional offices is 91 percent, versus 99 percent for the first wave of general applicants.

A major cause of SAW fraud is the IRCA provision which permits applicants to submit any type of documentary evidence which supports their claims of 90 days of qualifying U.S. farmwork. A substantial number of SAW applicants submit affidavits from farm employers or fellow workers in lieu of payroll records for all or part of the 90 days, and these affidavits have become a major part of the fraud problem. Most Qualified Designated Entities submit SAW applications only from workers who have payroll records for at least 45 to 60 days of qualifying farmwork, i.e., QDE's usually ask applicants to attempt to get more employment documentation to have a better case, but when the word spread that INS was recommending initial approval of SAW applications supported only by affidavits, "immigration consultants" filed SAW applications supported only by affidavits and got the SAW applicants six-month temporary work authorizations in a few days.

Some employers demanded such work authorization cards in the fall of 1987, so affidavit-only SAW applications filed by consultants who "guaranteed" approvals rose. Given the difficulty and cost of securing payroll records, bone fide and fraudulent applications supported only by affidavits were filed. In this sense, the fact that only 20 percent of the SAW applications were filed through QDEs may reflect more the incentive for free enterprise fraud than the applicants' lack of fear of INS.

INS has attempted to discourage fraud by publicizing its arrests of sellers of false affidavits, by developing fraud profiles, and by permitting local offices to deny apparently fraudulent SAW applications in order to deny applicants a six-month work permit for $185. However, some SAW applications are still being filed with no payroll records to support the claim of 90 days of qualifying work, just affidavits. To the extent that farm employers are providing such affidavits in lieu of missing payroll records, they are subject to fines under the Migrant and Seasonal Agricultural Worker Protection Act for failing to maintain required payroll records; an INS-DOL investigation of such employers may help to reduce false affidavits, although investigators may be hampered by IRCA confidentiality requirements.

3. Farm Labor Shortages

Many farmers believe that despite the SAW legalization program, there will be farm labor shortages in 1989. The farmers reason that many of their traditional workers will not be eligible for SAW status and that many SAW-eligible workers will not apply, so there will not be a sufficient pool of farmworkers in 1989 when employer sanctions eliminate illegal alien farmworkers.

Even if the pool of SAWs is 400,000 or more, nonfarm employers might "steal" the SAWs away from agriculture. The SAW program ends on November 30, 1988, and the RAW program does not begin until October 1, 1989, so many farmers assert that the enforcement of employer sanctions throughout agriculture and the 10-month gap between the SAW and RAW programs will produce a 1989 farm labor shortage.

During the immigration reform debate, western farmers argued that the nature of "their agriculture" required a pool of mobile and flexible alien farmworkers. There are two types of alien worker programs: contractual programs which tie a foreign worker to a particular job vacancy, and noncontractual programs which essentially give foreigners work permits to hunt for jobs. Western growers argued that contractual programs required an impossible amount of labor planning and coordination: under the (revised) H-2A contractual foreign worker program, farm employers have to develop job descriptions, determine the number of people to be hired, guarantee a minimum wage, arrange for housing, and then attempt to recruit Americans before they receive permission to bring in foreign workers. Western growers argued that ever-changing weather and crop conditions make such a contractual program unworkable, so that Western agriculture must have a non-contractual or free agent alternative.

The SAW-RAW program is this free agent noncontractual alternative. However, an "insufficient" number of SAWs and the 1989

RAW gap prompt questions about what farm employers are doing about the H-2A foreign worker alternative. The answer is that, after a labor shortage scare in May-June 1987 and six months of discussion of looming 1989 labor shortages, Western farmers still maintain that the H-2A program is unworkable.

The main reason for this assumption that the H-2A program is unworkable is that the program requiresfarmers seeking certification to admit foreign workers to provide them with acceptable housing. Such housing does not exist in most Western states. In California, for example, the 25 federal and state operated farmworker housing centers can house about 6,500 farmworkers, and 1,100 private labor camps can house 70,000 workers. However, California growers are reluctant to construct the housing necessary to qualify for H-2A certification: a Californa program with $1.5 million to loan to farmers at 1 to 7 percent to rehabilitate farmworker housing did not generate a single applicant during its first 5 months. However, there may be more interest in subsidies for constructing new farmworker housing.

The labor shortage scare of May-June 1987 may be instructive. Producers of perishable commodities such as California cherries and Oregon strawberries complained of crop losses caused by labor shortages. These labor shortages were allegedly caused by IRCA's beefed up border enforcement which reduced the normal seasonal influx of illegal alien farmworkers.

Subsequent events showed that the labor shortages were more complex. For example, an unusually early and bountiful Oregon strawberry crop created a demand for labor before school children were available; despite the labor shortage allegations, Oregon growers harvested more strawberries in 1987 than in any of the previous five years with stable labor costs. A survey of California growers in August-September 1987 found that only six of 139 reported IRCA-caused crop losses, and that wages and employment patterns did not seem to be affected by IRCA. Indeed, the most perishable fruit and vegetable crops employed the lowest percentage of workers who were expected to seek amnesty, suggesting that growers who would suffer crop losses if the harvest was interrupted by a Border Patrol raid had taken steps to legalize their workforces before IRCA was enacted. Producers of less perishable greenhouse products and field crops reported higher percentages of illegal aliens, perhaps because there is a smaller crop loss penalty if illegal alien workers are apprehended.[6] Of course, these 1987 experiences do not indicate what may happen in 1989.

In California, Washington, and Florida, observers are reporting that new or first-time illegal alien workers are continuing to enter the U.S. These first-time illegal aliens will not qualify for the SAW program, but they can be hired by most crop employers through 1988 without penalty. The entry of such first-time illegal aliens suggests that stepped-up INS border enforcement has not had its expected effects on the first-time entrants who should have been discouraged by the higher costs of crossing better-protected borders.

Conclusions

Most immigration amnesties generate fewer applicants than predicted. This lower-than-expected number of applicants inevitably leads to the question: was the illegal alien population overestimated or were the legalization rules too stringent? The lower-than-expected number of SAW applicants raises this same question of tough rules versus few illegal aliens.

A mid-course review of the SAW program indicates that the major reason why there may be fewer applicants than expected is because of IRCA, not INS interpretation of IRCA; i.e. the major disqualifier of illegal alien farmworkers is the requirement that they did 90 days of qualifying work in 1985-86. Relatively few farmworkers satisfy this criterion, especially in the qualifying occupations and crops. If Congress had said that illegal alien farmworkers qualify if they did at least the average number of days of farmwork done by workers in the crops ultimately deemed "perishable," the number of qualifying days would have fallen toward 40 to 50 and many more workers would have qualified.

Most of the workers who do qualify appear to be applying for SAW status. Concerns that family breakups, back tax liabilities, difficulty in securing documentation, and legalization costs keep qualified workers from applying do not seem to be borne out. However, there are some illegal alien farm workers and farm employers who do not believe that IRCA will be enforced and thus they see no need to apply for SAW status or to hire legal workers.

The SAW program may be followed by the RAW program, which provides a "rolling amnesty" to workers who do enough qualifying farmwork. To the extent that the SAW program does yield a pool of non-qualified family members, the RAW program could give first priority to these family members of SAW households. Such a selection process would unify families, provide employers with workers who already have U.S. housing and support systems, and limit the creation of new illegal immigration networks which might result from RAW recruitment in areas without traditions of migration to the U.S. Admitting non-qualifying SAW family members through the RAW program would also help to reduce the number of "in-limbo" illegal aliens.

This review suggest three conclusions:

1. The major cause of lower-than-expected SAW applicants is the 90-day rule, not the reluctance of qualified workers to apply because of fears of family breakup or back taxes. Thus, changes in INS regulations regarding families or legalization costs cannot be expected to generate substantial numbers of additional SAW applicants.

2. Some workers have problems securing employment records, especially workers employed by employers who were violating payroll tax or labor laws. However, the INS policy of initially granting 6-month work authorizations to SAW applicants whose documentation consisted only of affidavits encouraged fraud by immigration consultants and workers.

3. Labor shortages are predicted for 1989. There appear to have been few labor shortages or wage changes in 1987, in part because first-time illegal alien workers came to the U.S. The Western employers who are predicting 1989 labor shortages continue to maintain that the revised H-2A program is unworkable; they are not building or rehabilitating housing in order to satisfy H-2A certification criteria.

Footnotes

1. Senator Alan Cranston (D-Ca) talked of "hundreds of thousands of farmworkers who may qualify for the SAW program" in California. *Congressional Record*, November 6, 1987, p. S15999.

2. Ibid.

3. Some reports suggest that young Mexican illegal aliens who qualify do not apply because they do not want to register with the U.S. selective service system; this reason for not applying for SAW status is not heard frequently today.

4. Unemployed farmworkers in California collect about twice as much in UI benefits as farm employers paid in UI taxes. In 1985, California crop employers contributed $66 million in UI payments and unemployed crop workers drew $151 million in benefits. *EDD Report* 352, p.1, 1986.

5. *New York Times*, November 5, 1987.

6. P. Martin and S. Luce, "Immigration Reform and California Agriculture," *California Agriculture* (forthcoming).

7. D. Meissner, D. Papademetriou, and D. North. *Legalization of Undocumented Aliens: Lessons from Other Countries* (1986).

APPENDIX II

SCHEDULE OF INTERVIEWS AND DISCUSSIONS

CHICAGO

Randy Pauley, Refugee and Immigrant Liaison, City of Chicago Commission on Human Relations.

A.D. Moyer, District Director, INS.

David Marzahl, Executive Assistant for Legalization, Travelers & Immigrants Aid.

Bryan Perryman, Deputy Director, INS.

Henry Bryant, Acting Legalization Director, INS.

Roberto Conrelio, International Representative and Immigration Project Coordinator, Midwest Region, International Ladies' Garment Workers' Union.

Arturo Jauregui, Staff Attorney, Mexican American Legal Defense and Educational Fund.

Zeferino Ochoa, Director, Latin American Center.

David Strauss, Executive Director, Illinois Human Rights Commission.

Leo W. Kazaniwskyj, Special Assistant to the Governor for Ethnic Affairs, Office of the Governor, State of Illinois.

NEW YORK

Randye Retkin, Director, Volunteers of Legal Service.

Laurence McClain, Congress on Racial Equality.

Halley Delaney, New York Community Trust.

Laurie Milder, Association of the Bar of the City of New York.

Felix Cardona, Center for Immigrants' Rights.

Muzzafar Chisti, International Ladies' Garment Workers' Union.

Charles Sava, District Director, INS.

John Feinblatt, Victim Services Agency.

Josh DeWind, Center for Social Sciences, School of International Affairs, Columbia University.

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Frank Vardy, Population Division, Department of City Planning, New York City.

Liz Bogen, Director, New York City Office of Immigrant Affairs.

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Linner Delcham, Episcopal Mission Society.

Maritza Sarmiento-Radbill, Concerned Citizens of Queens.

Nora Gomez, HANAC Social Service.

Michael Tong, Chinese-American Planning Council.

Frank J. Schorn, Catholic Migration Services, Inc., Catholic Migration and Refugee Office.

Eileen Gillen, Catholic Charities-R.V.C.

Frank Gilkes, Caribbean Women's Health Association.

Nicole Kim, Catholic Charities, Archdiocese of New York.

Angela Liriano, Citizens Advice Bureau.

Kathleen Masters, Legal Aid Society.

Carlos Ruiz, Nuevo Horizontes.

Jose Prince, Latin American-Caribbean Labor Institute.

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Gloria Alfonso, Assistant Director, Regional Legalization Office, Migration and Refugee Services, U.S. Catholic Conference.

Nicholas V. Montalto, International Institute of New Jersey, Jersey City.

George Piegaro, Director, Catholic Community Services, Newark.

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Martin H. Conze, Division of Citizen Services, Metropolitan Dade County, Office of the County Manager.

Micheline Ducena, Director of Outreach Ministries, Ministry with Refugee Women and Children, A Program of the United Methodist Church's Urban Ministry.

Perry A. Rivkind, District Director, INS.

Wayne L. Joy, Assistant Director, Legalization, INS.

Eric McLeod, Supervisor, Hialeah Legalization Office, INS.

Bernard P. Perlmutter, Immigration Project Director, Legal Services of Greater Miami, Inc.

Len Kaminsky, Haitian Refugee Center.

Ira Kurzbam, President, American Immigration Lawyers Association.

Maritza Herrera, Executive Director, Nicaraguan-American Foundation.

ORLANDO

Tom Aglio, Director, Catholic Social Services.

Doris Brown, Legalization Director, Catholic Social Services.

Ellen Geiger, Special Agricultural Workers Program, Catholic Social Services.

Ron Lustig, Agricultural Growers and Shippers Association.

BOSTON

Charles Cobb, District Director, INS.

Ray Sleeper, Director of Investigations, Boston District, INS.

Roger Nye, Boston Legalization Office Director, INS.

Maureen O'Brien, Director, Catholic Charities Refugee and Immigration Services, Boston.

Frances LaRoche, Legalization Coordinator, Haitian Multiservice Center.

Allessandro Durstine, Legalization Coordinator, El Centro del Cardenal, Boston.

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Muriel Heiberger, Executive Director, Massachusetts Immigrant and Refugee Advocacy Coalition, Boston.

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Jennifer Gordon, Centro Presente, Cambridge.

Rev. Phil Earley, Legalization Director, Refugee and Immigration Services, Boston.

WASHINGTON, D.C.

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Mr. Ron Parra, District Director, INS.

Mr. Charles C. Foster, Tindall & Foster.

Mr. Leonel Castillo, President, Houston International University.

Harry Gee, Jr., Law Office of Harry Gee, Jr.

AUSTIN

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Michelle Y. Limon, Mexican American Legislative Policy Council.

Norma Placenzia, The National Immigration Forum.

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SAN FRANCISCO

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Helen Sklar, The Immigrant Resource Center.

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Phil Ritter, Northern California Grantmaker's Task Force on the Legalization of Immigrants.

William R. Tamayo, Esq., Asian Law Caucus, Inc.

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APPENDIX III

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* The views expressed in this report are the authors' alone. Comments of members of the Review Panel were taken into consideration, when appropriate.

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DEMETRIOS PAPADEMETRIOU is Executive Director of Population Associates International. He was formerly the Executive Editor of the International Migration Review and taught political science at the University of Maryland, Duke University, and the Graduate Faculty of the New School for Social Research. He has written extensively on the immigration and refugee policies of the U.S. and other advanced industrial societies, the impact of migration on the U.S. labor market, and the relationship between international migration and development.

188